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सं० 19] नई दिल्ली, शनिवार, मई 13, 1967/वैशाख 23, 1889
No. 19] NEW DELHI, SATURDAY, MAY 13, 1967/VAISAKHA 23, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

नोटिस
NOTICE

नीचे लिखे भारत के असाधारण राजपत्र 1 मई, 1967 तक प्रकाशित किये गये ।

The undermentioned Gazettes of India] Extraordinary were published upto the 1st May, 1967 :—

Issue No.	No. and Date	Issued by	Subject
248	S.O. 1447, dated 20th April, 1967.	Election Commission, India.	List of Contesting Candidates.
249	S.O. 1448, dated 20th April, 1967.	Do.	List of Contesting Candidates.
250	S.O. 1449, dated 22nd April, 1967.	Do.	Bye-election to the House of the People from Guna Parliamentary Constituency, Madhya Pradesh
251	S.O. 1450, dated 24th April, 1967.	Ministry of Law	Names of the members elected by the elected members of Legislative Assembly of Kerala.
	S.O. 1451, dated 24th April, 1967.	Do.	Biennial election to the Kerala Council of States.
252	S.O. 1452, dated 24th April, 1967.	Ministry of Commerce.	Further amendments to the Exports (Control) Order, 1962.
253	S.O. 1453, dated 24th April, 1967	Election Commission, India.	Appointment of the Under Secretary, Legislation, Jammu and Kashmir Legislative Assembly Jammu, as an Assistant Returning Officer for the Presidentti Election.

Issue No.	No. and Date	Issued by	Subject
254	S.O 1454, dated 24th April, 1967.	Election Commission, India.	Specifying the Assistant Returning Officers and places of Polling for the Presidential Election in the table therein.
255	S.O. 1455, dated 24th April, 1967	Ministry of Commerce.	Specifying the exceptions, restrictions and limitations subject to which the Companies Act, 1956 (1 of 1956) shall continue to apply to the India United Mills Ltd., Bombay.
256	S.O 1540, dated 25th April, 1967.	Election Commisssion, India.	Election to the Council of States by the elected members of the Legislative Assembly of Tripura.
257	S.O. 1541, dated 25th April, 1967.	Do.	Further amendments in Notification No. 56/66, (S.O 3667), dated 1st December, 1966.
258	S O. 1542, dated 25th April, 1967.	Do.	The Conduct of Elections (Amendment) Rules, 1967.
259	S.O. 1543, dated 25th April, 1967.	Ministry of Law	Declarations for bye-election to fill casual vacancies in the Council of States.
260	S.O. 1544, dated 26th April, 1967.	Ministry of Commerce.	Further amendments to the Exports (Control) Order, 1962.
261	S O. 1545, dated 26th April, 1967.	Election Commission India.	List of Contesting Candidates.
262	S.O. 1546, dated 26th April, 1967.	Do.	List of Contesting Candidates.
263	S O. 1547, dated 27th April, 1967.	Ministry of Information and Broadcasting.	Approval of the film as specified therein.
264	S.O. 1548, dated 27th April, 1967.	Election Commission, India.	Appointing Shri Bishembernath, Under Secretary, Law Department also to assist the Returning Officer for the election to the Council of States of Jammu & Kashmir State.
	S.O. 1549, dated 27th April, 1967.	Do.	Appointing Shri Bishembernath, Under Secretary, Law Department also to assist the Returning Officer for the election to the Council of States of Jammu & Kashmir State.
265	S.O. 1550, dated 27th April, 1967.	Ministry of Labour, Employment and Rehabilitation.	Further amendment in the notification No S.O. 3202, dated 12th November, 1963.
266	S O. 1551, dated 29th April, 1967.	Ministry of Law.	The Presidential and Vice-Presidential Elections (Amendment) Rules, 1967
267	S.O. 1552, dated 1st May, 1967.	Ministry of Steel, Mines and Metals (Deptt. of Iron & Steel).	Exemption of the categories of Steel specified in the Schedule.

Issue No.	No. and Date	Issued by	Subject
268	S.O. 1553, dated 1st May, 1967.	Election Commission, India.	Election to the Council of States by the elected Members of the Rajasthan Legislative Assembly.
269	S.O. 1554, dated 1st May, 1967.	Do.	Election to the Council of States by the elected Members of the Rajasthan Legislative Assembly.
270	S.O. 1555, dated 1st May, 1967.	-Do.	Bye-Election to the Council of States by the elected Members of the Mysore Legislative Assembly.
271	S. O. 1556, dated 1st May, 1967.	Ministry of Industrial Development & Company Affairs (Deptt. of Industrial Development).	The Board of Management shall continue for a further period of one year from the 15th May, 1967.
272	S. O. 1557, dated 1st May, 1967.	Ministry of Law (Legislative Deptt.)	Declarations regarding candidates elected to the House of the People from different constituencies referred to therein.

ऊपर लिखे असाधारण राजपत्रों की प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुंच जाने चाहिएं।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 5th May 1967

S.O. 1652.—In pursuance of sub-section (6) of Section 116A of the Representation of the People Act, 1951 (43 of 1951), and as continued by Section 63 of the Representation of the People (Amendment) Act, 1966, the Election Commission hereby publishes the judgment of the High Court of Judicature at Allahabad dated the 23rd March, 1967, on an appeal from the order dated the 30th November, 1964 of the Election Tribunal, Allahabad.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Civil Side Appellate Jurisdiction

Dated; Allahabad, the 23rd March, 1967

PRESENT:

The Hon'ble B. Dayal—Judge.

&

The Hon'ble D. D. Seth—Judge.

FIRST APPEAL NO. 416 OF 1964

First appeal against the judgment and order dated 30th November, 1964 passed by the Election Tribunal, Allahabad dismissing the Election Petition No. 208 of 62.

Shri Hari Raj Singh—*Petitioner.*

Versus

Shri Shah Nawaz Khan and another—*Respondent.*

By the Court

(Delivered by Hon'ble B. Dayal, J.)

The learned counsel for the appellant states that he does not press the appeal except on the question of costs:

Two questions have been mainly argued:

(1) That Rs. 1,000/- counsel's fee which has been added to the decree were not proved on the record to have been paid to the learned counsel. We have looked into the record. With regard to the costs only one affidavit was filed of Sri Ikhlaq Mohammad. In that affidavit it is not stated that Rs. 1,000/- were paid to the learned counsel. We, therefore, agree with learned counsel for the appellant that there being no proof of any costs having been incurred in respect of counsel's fee it was not proper for the Tribunal to add the same in the decree.

(2) That costs with regard to the travelling expenses and diet money added to the decree are too high. It was contended that the appellant was from the very beginning requesting that the case be heard at Meerut which would have very much reduced the costs but this request was opposed by the respondents and hence he should not be permitted to charge all the costs for bringing the witnesses from Meerut. We do not agree with this argument. Holding of trial either at Allahabad or at Meerut was in the discretion of the Tribunal and after hearing both the parties if the Tribunal decided to hold the trial at Allahabad a party cannot be blamed for incurring costs in bringing the witnesses here. We, however, note that in the affidavit some of the witnesses have been shown as having been paid third class fare while others have been shown as having been paid second class fare. We think that in the matter of taxation of costs a uniform rate should be applied in this matter and the third class railway fare calculated in the first category of witnesses should be paid to all the witnesses. The diet money will, however, be included as shown in the affidavit because the staying and diet money necessarily depends upon the standard of expense to which the witness is used. We accordingly reduce the taxation of costs by reducing Rs. 1,000/- as counsel's fee and the travelling allowances paid to second category of witnesses, whose expenses should be calculated at third class railway fare plus the diet money paid to them.

The appeal is accordingly partly allowed and the order of the Tribunal regarding costs is modified to the extent that the amount of the costs is reduced by Rs. 1,384/-. Parties will bear their own costs in this Court.

Sd./- B. D.

23-3-1967. Sd./- D. D. S.

[No. 82/208/62.]

New Delhi, the 6th May 1967

S.O. 1653.—In exercise of the powers conferred by Sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Andhra Pradesh hereby nominates Shri Syed Hashim Ali as the Chief Electoral Officer for the State of Andhra Pradesh with effect from the date he takes over charge and until further orders vice Shri Shravan Kumar.

[No. 154/1/67.]

By Order,

K. S. RAJAGOPALAN, Secy..

MINISTRY OF HOME AFFAIRS

ERRATA

New Delhi, the 4th May 1967

S.O. 1654.—For the figure "1967" occurring in the first sentence of Rule 2 of the Central Civil Services (Medical Examination) Amendment Rules, 1967, published in part II section III(ii) of the Gazette of India dated 15th April 1967 as S.O. 1281 the figure "1957" may be substituted.

[No. 38/3/66-Ests (A).]

P. S. VENKATESWARAN, Under Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 4th May 1967

S.O 1655.—In exercise of the powers conferred by Section 20 of the Indian Coinage Act, 1906 (3 of 1906), the Central Government hereby makes the following amendments to the notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. S.O. 734, dated the 6th March, 1962, namely:—

In the Schedule to the said notification,—

in part I,—

(a) for item 2 and the entries relating thereto, the following shall be substituted, namely:—

"2 The Masters, India Government Mint, Bombay, Alipore (Calcutta) and Hyderabad"; and

(b) in item 13, the words "the Chief Executive Officer and the Accounts Officer, Manipur Territorial Council" shall be omitted.

[No. F. 12/22/65-Coin.]

M. K. VENKATARAMAN, Under Secy.

(Department of Economic Affairs)

New Delhi, the 4th May 1967

S.O. 1656.—Statement of the Affairs of the Reserve Bank of India as on the 28th April, 1967

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid up	5,00,00,000	Notes	38,65,48,000
		Rupee Coin	9,61,000
Reserve Fund	80,00,00 000	Small Coin	3,90,000
National Agricultural Credit (Long Term Operations) Fund	115,00,00,000	Bills Purchased and Discounted :— (*a*) Internal	..
		(*b*) External	
		(*c*) Government Treasury Bills	203,75,49,000
National Agricultural Credit (Stabilisation) Fund	16,00,00,000	Balances Held Abroad*	37,97,13,000
National Industrial Credit (Long Term Operations) Fund	20,00,00,000	Investments**	227,21,87,000
		Loans and Advances to :— (*i*) Central Government	..
		(*ii*) State Governments @	98,03,43,000

Deposits :–		**Loans and Advances to :—**	
		(*i*) Scheduled Commercial Banks†	42,82,31,000
(*a*) Government—		(*ii*) State Co-operative Banks††	136,86,44,000
		(*iii*) Others	2,69,80,000
(*i*) Central Government	79,38,36,000	Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund—	
(*ii*) State Governments	16,10,07,000	(*a*) Loans and Advances to :—	
		(*i*) State Governments	28,29,59,000
		(*ii*) State Co-operative Banks	11,40,70,000
		(*iii*) Central Land Mortgage Banks	
(*b*) Banks–		(*b*) Investment in Central Land Mortgage Bank Debentures	7,11,93,000
		Loans and Advances from National Agricultural Credit (Stabilisation) Fund—	
(*i*) Scheduled Commercial Banks	123,04,59,000	Loans and Advances to State Co-operative Banks	3,06,71,000
(*ii*) Scheduled State Co-operative Banks	4,56,84,000		
(*iii*) Non-Scheduled State Co-operative Banks	63,08,000		
(*iv*) Other Banks	12,21,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund—	
(*c*) Others	268,09,08,000	(*a*) Loans and Advances to the Development Bank	5,24,15,000
		(*b*) Investment in bonds/debentures issued by the Development Bank	
Bills Payable	36,32,74,000		
Other Liabilities	118,53,83,000	Other Assets	39,52,26,000
Rupees	882,80,80,000	Rupees	882,80,80,000

*Includes Cash and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@ Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 24,29,90,000 advanced to Scheduled Commercial Banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 3rd day of May, 1967.

An account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 28th day of April, 1967

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	38,65,48,000		Gold Coin and Bullion :—		
Notes in Circulation	3059,26,09,000		(*a*) Held in India	115,89,25,000	
			(*b*) Held outside India	..	
Total Notes issued		3097,91,57,000	Foreign Securities	186,42,01,000	
			TOTAL		302,31,26,000
			Rupee Coin		75,68,72,000
			Government of India Rupee Securities		2719,91,59,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		3097,91,57,000	TOTAL ASSETS		3097,91,57,000

Dated the 3rd day of May, 1967.

P. C. BHATTACHARYYA,
Governor.

[No. F. 3(3)-BC/67.]

S.O. 1657.—In pursuance of clause (c) of sub-section (1) of Section 21 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominates the following persons to be members of the Madras and New Delhi Local Boards of the State Bank of India, respectively:—

Madras local board

Shri R. B. Jesudasan, M/s. Oldham & Son (India Ltd., Madras).

New Delhi local board

Shri Daljit Singh, M/s. Oriental Building & Furnishing Co. (Pvt.) Ltd., New Delhi-1.

[No. F. 8/83/66-SB.]

New Delhi, the 8th May 1967

S.O. 1658.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Gauhati Bank Ltd., Gauhati in respect of the undernoted properties held by it, till the 15th March, 1968.

1. 4B-OK-8L of land;	Patta No. 40, Vill. Barpanara, Karara.
2. 4B-4K-11L of land;	Patta Nos. 8, 77, 79, 82 ond 88, Mauza-Khata.
3. 6B-4K-4L of land;	Patta Nos. 260(216) and 13, Mauza-Silasundarighopa and Beltola.
4. 2B of land;	Patta No. 88, Mauza-Bahjani.
5. 4B-17L of land;	Patta No. 2, Barpeta Town.

[No. F. 15(9)-BC/67.]

V. SWAMINATHAN, Under Secy.

(Department of Revenue & Insurance)

ESTATE DUTY

New Delhi, the 28th April, 1967

S.O. 1659.—In exercise of the powers conferred by sub-section (2A) of section 4 of the Estate Duty Act, 1953 (34 of 1953, the Central Government hereby appoints Shri T. K. Sourirajan, Assistant Commissioner of Income-tax as an Appellate Controller of Estate Duty with headquarters at Calcutta and makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of Finance (Department of Revenue and Company Law) No. 35/F. No. 1/20/64-E.D. dated the 22nd May, 1964, namely:—

In the Schedule to the said notification, for the entry,

"2. Shri K. S. Narayanaswami, Assistant Commissioner of Income-tax, Calcutta,"

the following entry shall be substituted namely:—

"2. Shri T. K. Sourirajan, Assistant Commissioner of Income-tax, Calcutta."

2. This notification shall be deemed to have come into force on the forenoon of the 25th day of March, 1967.

[No. 5/F. No. 1/9/67-E.D.]

G. R. HEGDE, Dy. Secy.

CENTRAL BOARD OF DIRECT TAXES

ESTATE DUTY

New Delhi, the 28th April 1967

S.O. 1660.—In exercise of the powers conferred by sub-section (2A) of section 4 of the Estate Duty Act, 1953 (34 of 1953) and in partial modification of its notification No. 12/F. No. 1/31/66-E.D. dated the 6th September, 1966 published as

S.O. 2783 in Part II, Section 3(ii) of the Gazette of India dated the 24th September, 1966, the Central Board of Direct Taxes hereby directs that Shri T. K. Sourirajan, an Assistant Commissioner of Income-tax, appointed to be an Appellate Controller of Estate Duty by the notification of the Government of India, Ministry of Finance (Department of Revenue & Insurance) No. 5/F. No. 1/9/67-E.D. dated the 28th April, 1967, shall perform the functions of an Appellate Controller of Estate Duty in respect of—

(a) the estates of deceased persons assessed to estate duty on or after the 1st July, 1960, by an Assistant Controller of Estate Duty, and

(b) the estates of deceased persons in relation to which an appeal lies under section 62 of the Estate Duty Act, 1953, against an order passed on or after the 1st July, 1960, by an Assistant Controller of Estate duty,

where such Assistant Controller has in exercise of his functions under the Estate Duty Act, 1953, made such assessments or passed such orders—

(i) in any area comprised within the jurisdictions of the Commissioners of Income-tax mentioned below:—

Commissioner of Income-tax, West Bengal-I,

Commissioner of Income-tax, West Bengal-II,

Commissioner of Income-tax, West Bengal-III,

Commissioner of Income-tax, Assam, Nagaland, Tripura and Manipur,

and

Commissioner of Income-tax Bihar & Orissa;

(ii) in respect of any of the estates of the deceased persons who were being assessed to income-tax in the jurisdiction of the Commissioner of Income-tax, (Central), Calcutta.

2. This notification shall be deemed to have come into force on the forenoon of the 25th day of March, 1967.

[No. 6/F. No. 1/9/67-E.D.]

G. R. HEGDE, Secy.

INCOME-TAX

New Delhi, the 3rd May 1967

S.O. 1661.—In exercise of the powers conferred by sub-section (1) of section 122 of the Income Tax, Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf, the Central Board of Direct Taxes hereby makes the following further amendment in the Schedule appended to its notification No. 107 (F. No. 50/5/66-ITJ) dated the 27th October, 1966, namely:

In the said Schedule against A-Range, Patiala under column 2 the following entries shall be substituted, namely:—

A-Range, Patiala:	1. All Income Tax Circles, Wards or Districts having headquarters at: (i) Sangrur. (ii) Sirsa. (iii) Jind. 2. Companies Circle, Patiala. 3. B-Ward, Patiala. 4. C-Ward, Patiala. 5. Special Survey Circle, Patiala (in respect of persons who have their principal place of business in or reside in the jurisdiction of Income Tax Officers Sangrur, Sirsa, Jind, Companies Circle, Patiala, B-ward, Patiala and C-ward, Patiala).

This notification shall take effect from 10th May 1967.

Explanatory Note

The amendment has become necessary on account of creation of new circle at Jind.

(The above note does not form part of the notification but is intended to be merely clarificatory).

[No. 32/F. No. 50/74/67-ITJ.]

P. G. GANDHI, Under Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, M. P. & VIDARBHA

CENTRAL EXCISES

Nagpur, the 25th April 1967

S. O. 1662.—In excercise of the powers conferred upon me by Rule 5 of the Central Excise Rules, 1944, I hereby empower the Central Excise Officers specified in Column 2 of the subjoined table to exercise within their jurisdiction the powers of the "Collector" under the Central Excise Rules enumerated in Column 1 thereof subject to the limitations set out in Column 3 of the said table.

TABLE

Central Excise Rules	Rank of Officer	Limitations if any.
1	2	3
Rule 47(4) . . .	Assistant Collector, Central Excise.	Full powers.
Rule 53	Assistant Collector, Central Excise.	Full powers.

[No. 2/1967.]

VIPIN MANEKLAL, Collector.

THE MADRAS CENTRAL EXCISE COLLECTORATE, MADRAS

CENTRAL EXCISES

Madras, the 27th April 1967

S.O. 1663.—In exercise of the powers conferred on me by Rule 5 of Cenral Excise Rules, 1944 I hereby empower the Central Excise Officer specified below to exercise within his jurisdiction the powers of the collector under the rules enumerated in Col. 2 of the table below subject to the conditions set out in col. 3 thereof:

Rank of Officer	Relevant rules in respect of which power is delegated.	Conditions and limitations.
Assistant Collector.	Rules 47 and Rule 53 of Central Excuse Rules.	To grant permission to manufacturers of excisable goods, not to make entries in R.G. 1/EB. 4 accounts on the dates when there is no production, receipt in storeroom, or clearance of the particular excisable goods, provided the manufacturers declare that no such transaction has taken place or would take place on any date for which no entries are made and also undertake to make entries as and when such transaction takes place.

[C. No. IV/16/290/64 CX. I.]

S. VENKATARAMAN, Collector.

वाणिज्य मंत्रालय

नई दिल्ली, 18 अप्रैल, 1967

एस० ओ० 1664.—अत्यावश्यक वस्तु (निर्यात के प्रयोजनों के लिए उत्पादन तथा वितरण का विनियमन) आदेश 1960 के खण्ड 2 के उप-खण्ड (क) के अनुसरण में, केन्द्रीय सरकार एतद्द्वारा लोहा तथा इस्पात नियंत्रक को उक्त आदेश के प्रयोजनों के लिए लोहा तथा इस्पात के सभी वर्गों या किसी वर्ग के सम्बन्ध में नियुक्त करती है ।

[सं० 1 (1)-टी० ए० ई० पी०/67.]

डी० के० श्रीनिवासाचार, संयुक्त सचिव ।

MINISTRY OF COMMERCE

New Delhi, the 5th May 1967

S.O. 1665.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Cotton Control Order, 1955, namely:—

(1) This Order may be called the Cotton Control (Second Amendment) Order, 1967.

(2) In the Cotton Control Order, 1955 in clause 5,—

(a) in sub-clause (1), for the words "specify the maximum quantity", the words "specify the maximum or the minimum quantity or both" shall be substituted;

(b) for sub-clause (3), the following sub-clause shall be substituted, namely:—

"(3) No manufacturer shall buy or have in his possession a quantity of any cotton in excess of the maximum quantity, or less than the minimum quantity, specified in sub-clause (1)"

[No. F.10(1)-Tex(A)/65.]

T. S. KUNCHITHAPATHAM, Dy. Secy.

(Office of the Jt. Chief Controller of Imports and Exports)

ORDER

Bombay, the 4th/6th February 1967

S.O. 1666.—Whereas it has transpired that licence No. P/EP/2552771/C XX/23/C/B/23/02, dated 11th August, 1966, valued at Rs. 29,294 for import of Art Paper, Crome Paper and other items specified in the list attached to the said licence from the General Currency Area except Union of South Africa and South West Africa, granted by the Joint Chief Controller of Imports and Exports, Bombay to M/s. Laxmi Traders, 160, Dadabhoy Naoroji Road, Fort, Bombay-1, has been obtained by fraud, Government of India, in the Ministry of Commerce in exercise of the powers conferred by Clause 9(a) of the Imports (Control) Order, 1955, hereby cancel the said licence No. P|EP|2552771|C|XX|23|C|B|23|02, dated 11th August, 1966, issued to the said Messrs. Laxmi Traders, 160, Dadabhoy Naoroji Road, Fort, Bombay-1.

[No. 1|21|67|Enf-Bom|410.]

B. C. BANERJEE,
Dy. Chief Controller of Imports & Exports.
for Jt. Chief Controller of Imports & Exports.

(Office of the Chief Controller of Imports and Exports)

ORDERS

New Delhi, the 28th April 1967

S.O. 1667.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955, dated 7th December, 1955, as amended, the undersigned hereby cancels both the Customs Purposes copy and Exchange Control Purposes copy of Import Licence No. P/AU/1250578/C/XX/23/C/H/23·24, dated 11th August, 1966, for Rs. 42,935 issued to M/s. Basumati Pvt. Ltd., 166 Bepin Behari Ganguli Street, Calcutta, for the import of Stereo Flongs, Blankets, Photographic Negatives, Films and Paper excluding X-ray Films, Spare parts for Printing and Allied machines except banned and restricted items.

The reason for the cancellation is that both the copies are stated to have been lost/misplaced by the licensee, who has requested for the issue of duplicate licence in lieu thereof.

[No. 1/115-V/66-67/NPCIA.]

New Delhi, the 4th May 1967

S.O. 1668.—The Assistant Controller of Stores, Vishakhapatnam Port Trust, Vishakhapatnam was granted an Import Licence No. G/DG/2103519/R/ND/21/CH/21.22 dated 5th April 1965 for Rs. 174697/-. The I.T.C. classification is 65(5)(ii)(A)/V. It is stated that the original licence was to be registered with the Custom House at Vishakhapatnam. The Exchange Control Copy of the licence is hereby cancelled un-utilised as the A/T No. MDS/E2/Port/1353P/1257 dated 31st July 1964 has been placed on F.O.B. basis and payment handled through Ministry of Finance (D.E.A.).

[No. 260-A/Cont/64-65/LVI/87.]

S. A. SESHAN,
Dy. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports & Exports)

ORDERS

Madras, the 5th May 1967

S.O. 1669.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancels the Customs Purpose copy of the Customs Clearance Permit No. P/CC/2345054/N/YY/21/C/P/20 dated 22nd June 1965 for Rs. 2,00,000 (Rupees Two lakhs only) issued to M/s. R. Garnier and Co., 4, Rue Saint Laurent, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate Customs Clearance Permit in lieu thereof.

[No. 1/4(12)/65-CDN.]

S.O. 1670.—In exercise of the powers conferred by clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2345055/N/YY/21/C/P/20 dated 22nd June 1965 for Rs. 1,44,720 (Rupees one lakh and forty four thousand and seven hundred and twenty only) issued to M/s. R. Garnier and Co., 4, Rue Saint Laurent, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate Customs Clearance Permit in lieu thereof.

[No. 1/4(12)/65-CDN.]

S.O. 1671.—In exercise of the powers conferred by clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2345144/N/YY/22/C/P/22 dated 17th November 1965 for Rs. 1,40,000 (Rupees one lakh and forty thousand only) issued to M/s. Continental Commerce Corporation, 2, Kamali Poochi Street, Pondicherry. The licence in question was registered with Bombay Customs and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate licence in lieu thereof.

[No 1/4(21)/65-CDN.]

S.O. 1672.—In exercise of the powers conferred by Clause 9 of the Imports Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2345053/N/YY/21/C/P/20 dated 22nd June 1965 for Rs. 2,00,000 (Rupees Two lakhs only) issued to M/s R. Garnier and Co., 4, Rue Saint Laurent, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate Customs Clearance Permit in lieu thereof.

[No 1/4(12)/65-CDN]

S.O. 1673.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2345057/N/YY/C/P/20 dated 22nd June 1965 for Rs. 1,25,000 (Rupees one lakh and twenty five thousand only) issued to M/s. R. Garnier and Co., 4, Rue Saint Laurent, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate Customs Clearance Permit in lieu thereof.

[No. 1/4(12)/65-CDN.]

S.O. 1674.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2348071/N/YY/21/C/P/20 dated 17th June 1965 for Rs. 1,00,000 (Rupees one lakh only) issued to M/s. Import Export Corporation 80, Kosakadai Street, Pondicherry. The licence in question was registered with Bombay Customs and remained unutilised.

The reason for the cancellation is that the Customs Purpose Copy of the Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a diplicate licence in lieu thereof.

[No. 1/4(3)/65-CDN.]

S.O. 1675.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended, the undersigned hereby cancel the Customs Purpose copy of the Customs Clearance Permit No. P/CC/2348081/N/YY/C/P/20 dated 18th June 1965 for Rs. 15,000 (Rupees Fifteen Thousand only) issued to M/s. Ipour Krishnaswamy Chetty Sons, 65, Kosakadai Street, Pondicherry. The licence in question was registered with Bombay Customs and remained unutilised.

The reason for the cancellation is that the Customs Purpose copy of Customs Clearance Permit had been lost/misplaced by the licensee who has requested for the issue of a duplicate licence in lieu thereof

[No. 1/4/(7)/65-CDN.]

S.O. 1676.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955 dated 7th December 1955 as amended the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2348062/N/YY/C/P/20 dated 14th June 1965 for Rs. 1,00,000 (Rupees one lakh only) issued

to M/s. International Import Export Agencies, 146, Mahatma Gandhi Road, Pondicherry. The licence in question was registered with Bombay Customs and remained unutilised.

The reason for the cancellation is that the Customs Purpose copy of the Customs Clearance permit had been lost/misplaced by the licence who has requested for the issue of a duplicate licence in lieu thereof.

[No. 1/4/(1)/65-CDN.]

S.O. 1677.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955, dated 7th December, 1955, as amended, the undersigned hereby cancels the Customs Purpose copy of the Customs Clearance Permit No. P/CC/2345115/N/YY/21/C/P/20, dated 30th June, 1965, for Rs. 15,000 (Rupees Fifteen Thousand only) issued to M/s. Gansyam S. Shah, 18, Rue Dumas, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose copy of the Customs Clearance Permit has been lost/misplaced by the licensee who had requested for the issued of a duplicate customs clearance permit in lieu thereof.

[No. 1/4(19)/65-CDN.]

S.O. 1678.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955, dated 7th December, 1955, as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2348068/N/YY/21/C/P/20, dated 16th June, 1954, for Rs. 17,500 (Rupees Seventeen Thousands Five Hundred only) issued to M/s. Nangia & Co., 77, Mission Street, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

The reason for the cancellation is that the Customs Purpose copy of the Customs Clearance Permit has been lost/misplaced by the licensee who had requested for the issue of a duplicate customs clearance permit in lieu thereof.

[No. 1/4(2)/65-CDN.]

S.O. 1679.—In exercise of the powers conferred by Clause 9 of the Import Control Order, 1955, dated 7th December, 1955, as amended, the undersigned hereby cancels the Customs Purpose Copy of the Customs Clearance Permit No. P/CC/2348063/N/YY/21/C/P/20, dated 16th June, 1965, for Rs. 60,000 (Rupees sixty thousand only) issued to M/s. Nangia & Co., 77, Mission Street, Pondicherry. The licence in question was not registered with any Customs House and remained unutilised.

These reason for the cancellation is that the Customs Purpose copy of the Customs Clearance Permit has been lost/misplaced by the licensee who had requested for the issue of a duplicate customs clearance permit in lieu thereof.

[No. 1/4(2)/65-CDN.]

J. MUKHERJI,
Dy. Chief Controller of Imports & Exports,
for Jt. Chief Controller of Imports & Exports.

MINISTRY OF PETROLEUM & CHEMICALS

New Delhi, the 1st May 1967

S.O. 1680.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O No. 25 dated the 27th December, 1966 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And whereas the competent authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of the publication of this declaration in the Oil and Natural Gas Com mission free from all encumbrances.

SCHEDULE

State: Gujarat District: Broach TALUKA: Ankaleshwar

Village	Survey No	Hector	Are	Prati Are.
Adol	574	0	4	60
	573	0	3	90
	564	0	14	86
	563	0	3	71
	561	0	7	43
	560	0	6	72
	580/C	0	12	93
	580/B	0	4	53
	580/A	0	6	13
	579	0	5	26
	578	0	12	55
	607	0	0	46
	606	0	8	28
	605	0	12	26
	610	0	5	92
	612/A	0	9	81
	611	0	6	28
	613	0	10	59
	614	0	1	30
	617	0	8	17
	616	0	8	05
	620	0	11	55

(Sd.) Illegible,
Assistant Liaison Officer,
Gujarat Pipeline Project,
Baroda.

[No. 31/41/64-Prod./Vol. 2.]

C. P. JACOB, Under Secy.

MINISTRY OF HEALTH AND FAMILY PLANNING

(Department of Health)

New Delhi, the 2nd May 1967

S.O. 1681—In pursuance of sub rule (6) of rule 57 of the Indian Port Health Rules, 1955, and in supersession of the notification of the Government of India, in the late Ministry of Health No. F. 13-26/61-IH, dated the 1st November, 1961, the Central Government hereby directs that the fees chargeable for the issue of Deratting Certificates and Deratting Exemption Certificates at the Ports of Bombay, Calcutta, Cochin, Kandla, Madras, Visakhapatnam, Mormugao and Mandapam Camp/Dhanushkodi shall be as specified in the Schedule annexed hereunder. (At the ports of Madras, Cochin, Kandla, Visakhapatnam, Mormugao and Mandapam Camp/Dhanushkodi only Deratting Exemption Certificates are issued at present)

SCHEDULE

Part I

Scale of fees to be charged for—

(a) the grant of Deratting Certificates after deratting by an agency* other than the Port Health Organisation,

(b) the grant of a Deratting Certificate after deratting has been carried out by the Port Health Organisation by means of trapping;

(c) inspection of a vessel to ascertain the need for deratting or deratting exemption (also see Notes 1 and 2 below)

	Rupees
For a vessel having a cubic capacity of 1400 cubic metres or under	30
For a vessel having a capacity of 1401 to 2800 cubic metres	35
For a vessel having a cubic capacity of 2801 to 5700 metres	40
For a vessel having a cubic capacity of 5701 to 8500 cubic metres	45
For a vessel having a cubic capacity of 8501 to 11,300 cubic metres	50
For a vessel having a cubic capacity of 11,301 to 14200 cubic metres	55
For every 2,800 cubic metres or part thereof in excess of 14,200 cubic metres	6 extra

NOTES:—1. The fee prescribed for the inspection of vessels includes fee for issue of a Deratting Exemption Certificate.

2 The fee prescribed for the inspection is chargeable in addition to the fumigation fees laid down in Part II of this Schedule whenever an initial inspection of the vessel is carried out prior to fumigation. Fees for inspection are not to be charged for vessels which are to be directly fumigated at the request of the master or the agents

Part II

Scale of fees to be charged for the grant of Deratting Certificate after deratting has been carried out by the Port Health Organisation by fumigation

	Rupees
For a vessel having a cubic capacity of 1400 cubic metres or under actually fumigated	420
For a vessel having a cubic capacity of 1401 to 2800 cubic metres actually fumigated	460
For a vessel having a cubic capacity of 2801 to 5700 cubic metres actually fumigated	580
For a vessel having a cubic capacity of 5701 to 8500 cubic metres actually fumigated	730
For a vessel having a cubic capacity of 8501 to 11,300 cubic metres actually fumigated	870
For a vessel having a cubic capacity of 11,301 to 14,200 cubic metres actually fumigated	1,010
For every increase of 2,800 cubic metres or part thereof in excess of 14,200 metres the extra charge will be	140

*At Calcutta, fumigation of vessels is carried out by the Port Commissioners who charge the difference between the charges laid down in Part II and the corresponding charges laid down in Part I of the Schedule.

Part III

Scale of fees to be charged for the grant of a Deratting Certificate after deratting has been carried out by the Port Health Organisation by poison baiting

	Rupees
For a vessel having a cubic capacity of 8500 cubic metres or less	125
For a vessel having a cubic capacity of more than 8500 cubic metres	150

Part IV

Scales of fees to be charged for the grant of a Deratting Certificate after deratting has been carried out by an agency other than the Port Health Organisation by poison baiting

Scale of fees to be levied by the agency plus the scale of fees laid down in Part I.

Part V

Overtime fees for the staff of the Port Health Organisation.

For rat inspection, deratting, or supervision of deratting and the issue of the concerned deratting/deratting exemption certificate

(a) between 6 P.M. and 6 A.M. on any working day (even where such period falls partly on a Sunday or a closed holiday and partly on a working day)

(b) on a Sunday or a closed holiday

The overtime fee for the work upto three hours or a part thereof will be Rs. 30/ (Rupees thirty only) and if the overtime work extends beyond three hours, the scale of overtime fee will be at the rate of Rs 10/- per hour or a part thereof

[No. F. 13-26/61-IH.]

AMAR NATH VARMA, Under Secy.

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 28th April 1967

S.O. 1682.—In exercise of the powers conferred by rule 4A read with rule 5 of the Indian Electricity Rules, 1956, the Central Government hereby appoints, with immediate effect and until further orders, the following officers of the Commercial Directorate of the Central Water and Power Commission (Power Wing), to be the officers to assist the Central Electrical Inspector for various Union territories and Central Government electric installations appointed under section 36 of the Indian Electricity Act, 1910 (9 of 1910), namely:—

1. Shri L. C. Pamnani, Deputy Director.
2. Shri B. Hariharanath, Assistant Director.
3. Shri V. D. Patel, Assistant Director.
4. Shri B. M. Gupta, Assistant Director.
5. Shri L. S. Bageshwar, Assistant Director.
6. Shri D. L. Gulati, Assistant Director.
7. Shri J. L. Mehta, Extra Asstt. Director.
8. Shri S. Shanmugam, Extra Asstt. Director.
9. Shri R. K. Sharma, Extra Asstt. Director.

[No. EL-II-4(3)/67.]

D. K. BASU, Dy. Director (Tech.).

New Delhi, the 2nd May 1967

S.O. 1683.—In exercise of the powers conferred by clause (g) of sub-section (1) of section 79 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby specifies the following works, namely:—

(i) 66 KV Sub-station at Chandigarh; and

(ii) 66 KV transmission line (Double Circuit) from Dhulkote to Chandigarh.

[No. 6/5/66-B&B.]

K. P. MATHRANI, Secy.

MINISTRY OF TRANSPORT AND SHIPPING

(Transport Wing)

New Delhi, the 29th April 1967

S.O. 1684.—In exercise of the powers conferred by sub-section (1) of section 412 of the Merchant Shipping Act, 1958 (44 of 1958), read with sub-rule (2) of

rule 7 of the Control of Shipping (Rates) Rules, 1949, as amended by the notification of the Government of India in the Ministry of Transport No. S.R.O. 840, dated the 29th April, 1952, and continued in force by clause (a) of sub-section (3) of section 461 of the said Act, the Central Government hereby fixes the rates specified in column (2) of the Table below as the rates which may be charged by any ship engaged in the Coasting trade of India for the carriage of passengers between the ports mentioned in the corresponding entries in column (1) of the said Table

THE TABLE

Ports (1)	rate per passenger (2)
Bombay/Jaffarabad	Rs 22 00
Bombay/Navbunder	Rs 22 00
Bombay/Kutch Mandvi	Rs 23 20

[No 40-MD(23)/66.]

K V SANKARAN Dy Secy

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 6th May 1967

S O 1685—In pursuance of paragraph 4 of the Seamen's Provident Fund Scheme, 1966, the Central Government hereby accepts the resignation of Shri I B Syed from the membership of the Board of Trustees of the Seamen's Provident Fund and in exercise of the powers conferred by section 5 of the Seamen's Provident Fund Act, 1966 (4 of 1966) read with paragraph 3 of the Seamen's Provident Fund Scheme 1966 appoints Shri Leo Barnes as a member of the Board in place of Shri I B Syed and makes the following further amendment in the notification of the Government of India in the late Ministry of Transport and Aviation Department of Transport, Shipping and Tourism (Transport Wing) No S O 2878 dated the 20th September, 1966 namely —

In the said notification under the heading 'Members' against Serial No 7, for the existing entries the following entries shall be substituted, namely —

'Shri Leo Barnes — Seamen's representative'

[No 5-MT(2)/66]

D S NIM, Dy Secy

MINISTRY OF TOURISM AND CIVIL AVIATION

New Delhi the 6th May 1967

S O. 1686—In exercise of the powers conferred by rule 53 of the Aircraft Rules, 1920 the Central Government hereby rescinds the notification of the Government of India in the late Ministry of Transport and Communications (Department of Communications and Civil Aviation) No AR/1920(5)/10-A/86-58 dated the 18th October, 1958

[No F 10-A/45-66]

S N KAUL, Under Secy

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 2nd May 1967

S.O. 1687—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules 1951 as introduced by S O No 627 dated 8th March, 1960, the

Director General, Posts and Telegraphs, hereby specifies the 1st June, 1967, as the date on which the Measured Rate System will be introduced in THENI Telephone Exchange.

[No. 5-24/67-PHB(2).]

New Delhi, the 3rd May 1967

S.O 1688.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st June, 1967, as the date on which the Measured Rate System will be introduced in TIRUNAGAR Telephone Exchange.

[No. 5-23/67-PHB(5).]

New Delhi, the 5th May 1967

S.O. 1689.- In pursuance of para (a) of Section III of Rule 434 of Indian Telegraphs Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st June, 1967, as the date on which the Measured Rate System will be introduced in Mathura Telephone Exchange.

[No. 5-21/67-PHB(5).]

D. R. BAHL,
Asstt. Director General (PHB).

संचार विभाग

(डाक-तार बोर्ड)

नई दिल्ली, 2 मई 1967

एस० ओ० क्रमसंख्या 1690.—स्थायी आदेश क्रमसंख्या 627, दिनांक 8 मार्च 1960 द्वारा लागू किये गये 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने थेनी टेलीफोन केन्द्र में 1-6-67 से प्रमापित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-21/67-पी० एच० बी० (2)]

नई दिल्ली, 3 मई 1967

एस० ओ० क्रमसंख्या 1691.—स्थायी आदेश क्रमसंख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने तिरुनगर टेलीफोन केन्द्र में 1-6-67 से प्रमापित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-23/67-पी० एच० बी० (5)]

नई दिल्ली, 5 मई 1967

एस० ओ० 1692.—स्थाई आदेश क्रमसंख्या 627, दिनांक 8 मार्च 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने मथुरा टेलीफोन केन्द्र में 1-6-67 से प्रमापित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-21/67-पी० एच० बी० (5)]

डी० आर० बहल,
सहायक महानिदेशक (पी० एच० बी०)

औद्योगिक विकास तथा सम्बंधन कार्य मंत्रालय

(औद्योगिक विकास विभाग)

आदेश

नई दिल्ली, 1 मई 1967

एस० ओ० 1693.—जबकि भारत सरकार के भूतपूर्व वाणिज्य तथा उद्योग मंत्रालय के आदेश संख्या एस० ओ० 867 दिनांक 15 मई 1958 (जैसा कि बाद में संशोधित किया गया), जिसे भारत सरकार के भूतपूर्व वाणिज्य तथा उद्योग मंत्रालय के आदेश सं० एस० ओ० 1216 दिनांक 25 अप्रैल 1963 तथा भारत सरकार के भूतपूर्व उद्योग तथा संभरण मंत्रालय, उद्योग विभाग के आदेश सं० एस० ओ० 1327 दिनांक 24 अप्रैल 1965 के साथ पढ़ा जाय, के द्वारा मैसर्स जेसप एण्ड कम्पनी लि० कलकत्ता नामक उपक्रम का प्रबन्ध उपर्युक्त प्रथम आदेश में उल्लिखित प्रबन्धक बोर्ड द्वारा उक्त अवधि के लिए, जिसमें 14 मई 1967 सम्मिलित है, अपने हाथ में ले लिया गया है;

और केन्द्रीय सरकार की यह सम्मति है कि लोक हित की दृष्टि से उपर्युक्त उपक्रम का प्रबंध एक और वर्ष की अवधि के लिए प्रबंधक बोर्ड के अधिकार में जारी रखना श्रेयस्कर होगा;

अतः अब उद्योग (विकास तथा विनियमन) अधिनियम, 1951 (1951 का 65 वां) की धारा 18क की उपधारा (2) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद् द्वारा यह निदेश देती है कि उपर्युक्त प्रथम उल्लिखित आदेश 15 मई, 1967 से एक और वर्ष की अवधि तक प्रभावी होगा।

[फा० आई० एम०-8(12)/65]

एन० एन० वांचू,

सचिव भारत सरकार।

MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS

(Department of Industrial Development)

ORDERS

New Delhi, the 1st May 1967

S.O. 1694/IDRA.5.—In exercise of the powers conferred by section 5 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), read with rule 8 of the Central Advisory Council (Procedural) Rules, 1952, the Central Government hereby appoints Shri L. N. Birla and Shri H. S. Singhania to be members of the Central Advisory Council of Industries till the 8th July 1967, in place of Shri Ramanbhai B. Amin and Mr. R. H. Morrison respectively and directs that the following amendments shall be made in the Order of the Government of India in the late Ministry of Industry and Supply (Department of Industry) S.O. No. 2029, dated the 9th July 1965, namely:—

(a) In the said Order, for entry No. 2 relating to Shri Ramanbhai B. Amin, the following entry shall be substituted, namely:—

"2. Shri L. N. Birla, President, Federation of Indian Chambers of Commerce & Industry, Federation House, New Delhi. — Member"

(b) In the said Order for entry No. 17 relating to Mr. R. H. Morrison, the following entry shall be substituted, namely:—

"17. Shri H. S. Singhania, Chairman, Indian Jute Mills Association, Royal Exchange, 6, Netaji Subhas Road, Calcutta-1."	"Member"

[No. 1(3)Lic.Pol./65.]

S.O. 1695/IDRA/18.—In pursuance of rule 18 of the Registration and Licensing of Industrial Undertakings Rules 1952, and in partial modification of the Order of the Government of India in the late Ministry of Industry and Supply S.O No. 2664/RLIUR/18/1, dated the 17th August 1965, the Central Government hereby appoints Shri L. N. Birla, President, Federation of Indian Chambers of Commerce and Industry, New Delhi to be a member of the Reviewing Sub-Committee of the Central Advisory Council of Industries till the 8th July 1967, in place of Shri Ramanbhai B Amin whose term of office has expired

[No. 11(2)Lic.Pol./65.]

R C. SETHI, Under Secy.

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION

(Department of Labour & Employment)

New Delhi, the 2nd May 1967

S.O.1696.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), and having regard to the location of the factories mentioned in the schedule below in sparse areas in the State of Mysore, the Central Government hereby exempts them from the payment of the employer's special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of chapter V of that Act in those areas.

SCHEDULE

S. No.	Name of District	Name of area	Name of the Factory
1	Belgaum	Khanapur	Messrs Vanitha Sahakari Kamgar Sangh Limited.
2	Dharwar	Hirekerur	The Depot Workshop, Mysore State Road Transport Corporation.
3	South Kanara	Puttur	Messrs Mangalore Industries Co. P. Ltd., Mangalore.

[No. F. 6(29)/65-HI]

DALJIT SINGH, *Under Secy.*

(Department of Labour and Employment)

New Delhi the 2nd May 1967

S.O. 1697.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2, Calcutta, in the industrial dispute between the employers in relation to the Bejdih Colliery of Messrs Equitable Coal Company Limited, Post Office Disergarh, Burdwan and their workmen, which was received by the Central Government on the 28th April, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE No. 126 OF 1966

PARTIES:

Employers in relation to the Bejdih Colliery of M/s. Equitable Coal Co., Ltd.,

AND

Their workmen.

PRESENT:

Shri S. K. Sen—*Presiding Officer.*

APPEARANCES:

On behalf of Employers—Shri D. Basu Thakur.

On behalf of Workmen—Shri Shankar Chowdhury, Concerned workman

STATE: West Bengal. INDUSTRY: Coal Mines.

AWARD

By Order No. 6/98/65-LR.II, dated 8th November, 1965, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Bejdih Colliery of M/s. Equitable Coal Co. Ltd., P.O. Disergarh, Burdwan and their workmen in respect of the subject matter mentioned in the following schedule:

> "Whether the dismissal of Shri Shankar Chowdhury, Winding Engine Oil Mazdoor of Bejdih Colliery by the management of the Colliery, M/s. Equitable Coal Co. Ltd., with effect from the 22nd June, 1964, was an act of victimisation? If so, to what relief is the workman entitled?"

2. Shri Shankar Choudhury who obtained service in the Bejdih colliery in February, 1955 and was working as Winding Engine Oil Mazdoor in April, 1964, was served with an order of transfer to Bhanora colliery on 9th April, 1964, being asked to report for duty at Bhanora not later than 20th April, 1964. Through his union, the Colliery Mazdoor Sabha, he wrote a letter to the Chief Mining Engineer, dated 13th April, 1964, by registered post, protesting against the order of transfer and stating that the transfer order was intended to punish him for his trade union activities as he had left the recognised union and set up a branch of the Colliery Mazdoor Sabha of which he had been elected President of the local committee about a month back. Naturally the management did not withdraw the order of transfer on receiving such a letter; and the workmen's union, the Colliery Mazdoor Sabha, started a dispute alleging that the transfer was a colourable exercise of power and was intended to victimise the workman. The matter was referred to the tribunal by order, dated 20th July, 1964. In the reference case arising from that Reference order, *viz.*, Case No. 39 of 1964, it was held by Mr. L. P. Dave that the Reference Order had become instructuous because before the Reference order had been made proceedings had been started against Shankar Chowdhury for disobeying the order of transfer and for being absent from Bhanora colliery for over 10 days without sufficient reason, and he had been dismissed by an order dated 22nd June, 1964. Thereafter the workman, through his union, raised another dispute in respect of his dismissal and the present reference was made in respect of that dispute.

3. On behalf of the management, MWI, Shri S. K. Bhattacharjee, Labour Adviser, has stated that there were three recognised unions at Bejdih colliery namely, Colliery Mazdoor Congress, HMS, The Colliery Mazdoor Congress, Independent and the Colliery Mazdoor Union, and to his knowledge no unit of the Colliery Mazdoor Sabha had been started there, and it was only after his case had started that Shankar Choudhury wrote informing the management that he was President of the unit of the Colliery Mazdoor Sabha which had been started at Bejdih Colliery. Actually this information is contained in Ext. A, protest letter dated 13th April, 1964 sent against the transfer order. Anyhow, the case of the [illegible] that before passing the transfer order the management was not [illegible]owdhury was President of a newly started union with Con[illegible] the Colliery Mazdoor Sabha, and the order of transfer was made in the normal course of bus[illegible] the Standing Orders, of the Group of Collieries under th[illegible] quitable Coal Company Limited. A copy of the Standing [illegible] in the case; paragraph 26 provides that all workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another under the same management, provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice is given of such transfer. In the present case it must be held that reasonable notice was given, because the transfer order was issued on 9th

April, 1964 and the workmen was directed to join at the new post by 20th April, 1964. Shankar Choudhury's contention is that at Bejdih colliery he was getting a two room quarter where he lived with his family, but that by the transfer order of which a copy is Ext. E, he was offered a single room accommodation at Bhanora colliery, the manager of Bhanora colliery being directed to provide such accommodation to Shankar Choudhury when he joined at Bhanora colliery. As regards the accommodation, the management's case is that as a category I workmen, *i.e.* a workman of the lowest category Shankar Choudhury was not entitled to a two room quarter. MW 1, Amitava Ghose, clerk of the Welfare Officer of Bejdih colliery has stated that out of 10 new quarters at Bejdih each consisting of two rooms, Shankar Choudhury was allotted one room, each room having adjacent verandah and there being a common bath room and privy for the two rooms of each new house. Amitava Ghose, however, admitted in cross examination that another workman who was given the adjoining room in the same house had left on transfer before Shankar Choudhury was served with the order of transfer, and that from that time Shankar Choudhury was occupying both the rooms. But this appears to be the case of 'Jabbardakhal' *i.e.* forcible possession. The workman examined one witness Benoy Bauri, to prove that he was in occupation of two rooms all along in the new quarter, but in cross examination Benoy Bauri showed that he had no knowledge at all about the new quarters and about the allotment of a new quarter to Shankar Choudhury. Accordingly, there remains only the evidence of Amitava Ghose on the point, and it must be held that though Shankar Choudhury might be temporarily in occupation of two rooms in one of the new quarters at Bejdih colliery when he received the order of transfer he was not entitled to such accommodation and therefore the order that the management had passed for arranging one room at Bhanora for the accommodation when he joined must be held to be proper. It cannot be said that any condition of service which the workman was reasonably enjoying at Bejdih was threatened to be denied to him on his joining at Bhanora. I must also hold that the transfer order was made in the normal course of the management and was not a colourable exercise of power in order to crush the newly established unit of an union. In another Reference case concerning Bejdih colliery, namely reference case No. 85 of 1966, concerning the transfer of 86 workmen to other collieries from Bejdih, it has appeared that owing to exhaustion of one seam at Bejdih it was necessary to reduce the number of workmen and therefore transfers were being made to other collieries under the same management instead of retrenching them. It is unfortunate that the preachings of the leaders of the newly established union went to the head of Shankar Choudhury, and he wrote a strong letter to the management against the transfer order imputing various motives to the management. He should have acted upon the order of transfer, and if he had any real grievance about his quarters, he might have agitated later for allotment of quarters more convenient to him. The other reason given by him, *viz.* that no substitute winding engine oil mazdoor had been posted to whom he could over charge, has no force. He had to go after completing his shift on one day, and it was for the Management to arrange for the continued attention to the winding engine.

4. As regards the dismissal order it was made on [illegible] arted by the manager of Bhanora colliery where he should ha[illegible] April, 1964, but never joined. A copy of the chargesheet is [illegible] 'gesheet was drawn up on 11th May, 1964, for unauthorised absence for more than 10 days from Bhanora colliery with effect from 21st April, 1964. It was served by registered post and in the reply, Ext. C1, dated 21st May, 1964, sent by Shankar Choudhury he reiterated that the transfer was illegal and *malafide* and that he had started a dispute against the transfer order and that in the circumstances the question of absence from Bhanora colliery did not arise. The enquiry was held *ex-parte* on 16th June, 1964, because 3 notices, Exts. H, H1 and H2 as to the date of enquiry sent by registered post were returned unserved. In Ext. H there is an endorsement by the postal peon, dated 22nd May, 1964, that "addressee had left"; In Ext. H1 there is an endorsement by the postal peon dated 1st June, 1964 that the "addressee had left"; in Ext. H2 there is an endorsement, dated 13th June, 1964, that the "addressee had left without leaving any address". According to the evidence of Shankar Choudhury, however, he was staying on at his quarters at Bejdih colliery until 18th June, 1964, when on information that his child was ill, at his father-in-law's house at Sadepur in Katwa subdivision he went there and he returned on 30th June or on 1st or 2nd July, 1964. In the circumstances all the notices, Ext. H, H1, H2 ought to have been received by Shankar Choudhury. When it was pointed out in cross-examination, he stated that it may be when the postal peon had come on 22nd May, 1964 and on other date he might not be at home, *i.e.* at his quarter at Bejdih, He stated that after he had returned to his quarters at Bejdih he wrote a letter

to the Manager, Bhanora colliery on 7th July, 1964, through his union, copy of which is Ext. 1, enquiring about the case, and he wrote another letter through his union to the Chief Mining Engineer, Equitable Coal Co. Ltd., on 31st July, 1964, stating that he had received notice of enquiry on 8th June, 1964, on 9th June and could not, therefore, attend that enquiry and that he did not receive other notices, and he wanted to know what was the position relating to the enquiry against him. No reply was given to the letter by the Management. This is not surprising, as in the meantime, he had been dismissed on 22nd June, 1964, the dismissal order was valid even if Shankar Choudhury did not receive a copy thereof.

5. There is reason to think that Shankar Choudhury deliberately avoided receiving some of the registered notices as to the date of enquiry. Even if it is assumed that he really received the second notice of enquiry too late and did not receive the other notices of enquiry, there is no reason to send the case back, for had he appeared at the enquiry, he had really no defence whatever. He admittedly did not join at Bhanora, in view of the stand originally taken by him that the order of transfer was malafide. In the circumstances for unauthorised absence he was under the Standing Orders liable to be dismissed. In the circumstances it has to be held that no relief can be given to Shankar Choudhury

6. It should be added that Shankar Choudhury who conducted and argued his own case ultimately stated that he was willing to join at any colliery ordered by the management, but the representatives of the management present at the hearing stated that they were not authorised to accept the offer. Shankar Choudhury appears to be an intelligent workman who was misguided and therefore flouted the order of transfer. I would recommend to the management that he be offered some appointment if he should approach the management with the offer to join at any colliery as provided by the management.

7. My award however is that the dismissal of Shankar Choudhury Winding Engine Oil Mazdoor of Bejdih colliery with effect from 22nd June, 1964, was not an act of victimisation and therefore the workman is not entitled to any relief.

Sd/- S. K. SEN,
Presiding Officer.

Dated, the 25th April, 1967

[No. 6/98/65-LRII]

S.O. 1698.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Calcutta, in the industrial dispute between the employers in relation to the Girimint Colliery of Messrs Bengal Coal Company Limited, Post Office Dishergarh, Burdwan and their workmen, which was received by the Central Government on the 28th April, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE No. 66 OF 1966

PARTIES:

Employers in relation to the Girimint Colliery of M/s. Bengal Coal Co. Ltd.,

AND

Their workmen.

PRESENT:

Shri S. K. Sen—*Presiding Officer.*

APPEARANCES:

On behalf of Employers—Shri D. Narsingh, Advocate.

On behalf of Workmen—Shri P. Das Gupta.

STATE. West Bengal. INDUSTRY: Coal Mines

AWARD

By Order No. 6/31/65-LR.II, dated 28th October, 1965, the Central Government referred for adjudication an industrial dispute between the employers in relation to the Girimint Colliery of Messrs Bengal Coal Company Limited, P.O.

Dishergarh, Burdwan and their workmen in respect of the subject matter mentioned in the following schedule:

"Whether termination of services of Shri Banshi Harijan, U.G. Conveyor Loader of Girimint Colliery with effect from 7th August, 1964, was justified? If not, to what relief is he entitled?"

2. The workman Shri Banshi Harijan obtained employment under Girimint colliery in 1957. In 1964 he was working as a conveyor loader. The case of the union on his behalf briefly is as follows—a unit of the Colliery Mazdoor Sabha, Asansol, was established at Girimint colliery in April 1962 and Banshi Harijan became the President of the unit established at Girimint As a union leader, Banshi Harijan made representations to the management and also to Government officers about the grievances of the workmen. On the complaint of the manager Shri Kapil, the Police submitted a chargesheet under Sec. 11 of the West Bengal Security Act and Rule 41(5) of the Defence of India Rules against Banshi Harijan, Ambika Panda and Sukhari Chamar, in respect of their alleged conduct between 5th November and 10th November, 1962. Sukhari was absconding, and Banshi Harijan and Ambika Panda were placed on trial. They were both convicted by a Magistrate, 1st class, Asansol on 21st July, 1964 and sentenced to suffer R.I. for two years. The two accused filed an appeal before the Sessions Judge, Burdwan, and the Sessions Judge by an order, dated 3rd October, 1964, allowed the appeal and set aside the conviction, giving the accused the benefit of doubt. On 9th October, 1964, Banshi Harijan submitted an application to the Manager, Girimint colliery for being permitted to resume his duty. In reply he was directed to produce a copy of the appellate judgement. After receipt of a copy of the appellate judgement the management by a letter, dated 2nd December, 1964, informed Banshi Harijan that he had been given the benefit of doubt and not honourably acquitted; that he had been charged and tried for an offence against the State and public safety and was convicted in the lower court, and in the circumstances the management had lost confidence in him and could not reconsider his case. There was no chargesheet drawn up against Banshi Harijan and there was no domestic enquiry. According to the union, therefore, the order refusing to allow Banshi Harijan to resume his duty or terminating his service was illegal and malafide.

3. According to the management they had no information that Banshi Harijan had become the President of the unit of Colliery Mazdoor Sabha established at Girimint colliery. In the beginning of November, 1962, when China attacked North East India and there was a move to collect contribution for the Defence Fund by asking the wrokmen to work for 7 days in a week without rest for four weeks, and contribute one day's wages each week for four weeks to the Defence Fund, Banshi Harijan and some other employees of Girimint colliery carried on a propaganda amongst the workmen that it was India which had taken the aggressive and not China; that the India Givernment was the Government of capitalists whereas the Chinese Government was the Government of working classes, and that the workers should not therefore, contribute to the Defence Fund. Some loyal workmen informed the Labour Welfare Officer and the Manager sent a complaint to the Police on the basis of which Banshi Harijan and Ambika Panda were convicted by the Magistrate and sentenced to suffer 2 years' R. I. on 31st July, 1964. Thereafter on 7th August 1964 the manager issued a letter in the name of Banshi Harijan informing him that in view of the conviction by the Magistrate, Asansol and sentence of 2 years' R. I. for subversive and anti-Government activities at the colliery his service was being terminated with immediate effect This letter was sent to the Superintendent, Asansol Subjail for service on the workman concerned. According to the management because of loss of confidence in the workman there could be no question of reinstating him even when the appellate court acquitted him by giving him the benefit of doubt. The management added that on 9th September, 1962 Banshi Harijan participated in a riot in which some workmen belonging to another union were beaten up and the police took up a rioting case, and in that case Banshi Harijan was sentenced to suffer 3 months' R. I. by an order of the Magistrate, Asansol dated 18th December, 1964, and the appeal to the Sessions Judge by Banshi Harijan and others was dismissed, although a revision application before the High Court was still pending. The management's case is that in view of the conduct of Banshi Harijan he is not at all entitled to be reinstated.

4. The workman, Banshi Harijan, deposed before the tribunal that he never received the order of dismissal or termination of service dated 7th August 1964 In the union's written statement also the order dated 7th August 1964 is not referred to at all. On the other hand, paragraph 10 of the written statement

mentions that after he had submitted the certified copy of the appellate judgement he was dismissed, the reference being to the order dated 2nd December 1964. Now, the order dated 2nd December 1964, Ext. A, is not the order of dismissal, but it merely stated that the case of Banshi Harijan could not be reconsidered as he had been acquitted on benefit of doubt only and the company had lost confidence in him. Before the Conciliation Officer the management submitted a copy of the order of dismissal or termination of service dated 7th August 1964. Ext. E is a letter dated 19th February 1965 from the Labour Relations Officer of the Company to the Conciliation Officer, Central, Asansol. In paragraph 3 of that letter it is mentioned that after his conviction Banshi Harijan was served with a notice by the management on 9th August 1964 terminating his service with immediate effect. In paragraph 4 it was stated that the conviction was for an offence involving moral turpitude. Ext. F is a letter written by the Union on 20th February 1965 to the Conciliation Officer. Therein though reference is made to the management's letter dated 19th February 1965 it is not denied that an order of termination of service dated 7th August 1964 was issued on the workman concerned. Shri Parimal Das Gupta appearing on behalf of the union sought to argue that the letter, Ext. F was written by the union before the union had received the copy of the management's letter dated 19th February 1965. But in paragraph B of the Union's letter, Ext. F, there is reference to the management's letter dated 19th February 1965 and the union therein ridiculed the management's claim that the offence involved moral turpitude. This paragraph could not have been written unless the union had already got the copy of the letter, Ext. E written by the management The management has also proved the letter of termination of service sent to Banshi Harijan (Ext. I/1) to the Subjail, through the Superintendent of Subjail Shri P. Das Gupta commented adversely on the fact that the manager who wrote the letter had not been examined. But Sri Narsingh on behalf of the management rightly replied that it was never expected by the management that the notice of termination of service dated 7th August 1964 would be denied by the union on behalf of the workman, because that notice of termination of service was produced before the Conciliation Officer and before the Conciliation Officer the union did not say that the workman had never received such a notice. Further, in the order of reference, it is mentioned that the termination of service of Banshi Harijan by the management was with effect from 7th August 1964, the question propounded being whether the termination was justified. The tribunal cannot go behind the order of reference and must assume that there was termination of service with effect from 7th August 1964. There is also no reason to reject the genuineness of the letters, Ext. I written to the Jail Superintendent and Ext. I 1 to Banshi Harijan on 7th August 1964, even though the manager has not been produced and the letters have been proved by an officer of the company who came to instruct the advocate, Shri D Narsingh.

5. Accordingly, we have to proceed on the basis that the termination of service of Banshi Harijan took place with effect from 7th August 1964 by the letter Ext. I(1) The question is whether the termination of service was legal. Sri P. Das Gupta has referred to the Standing Orders of the company which provides that punishment for any misconduct can be imposed only after the workman has been given an opportunity to give his reply. It has therefore been urged that as in the present case there was no chargesheet drawn up and the workman was not given the opportunity to give his reply, the order of termination of service or dismissal is bad It is not however necessary that there must be a domestic enquiry after issue of chargesheet in all cases. The Supreme Court has held that where the workman remains absent for more than 10 days on account of arrest or detention by police or in jail custody, the management would be justified in terminating the service even without issue of chargesheet Reference may be made in this connection to Indian Iron & Steel Company Limited and others V their workmen, (AIR 1958 SC 130) The view taken by the Supreme Court will appear from the following extract, "Let us first take the 7 workmen who were absent without leave for 14 consecutive days..... What happened in the case of these men is that on diverse days between July 5, 1953 to July 10, 1953 they were taken in custody by the police and remained in custody for some time, they applied for leave when in custody but leave was refused..... Mr. S. K. Acherjee on behalf of the workmen contended that in view of the circumstance that the men were in custody the company was not justified in refusing leave This contention found favour with the Labour Appellate Tribunal. The point is now covered by a decision of this court, Burn & Co., Calcutta V. Their Workmen (AIR 1957 S.C. 38). In that case one Ashimananda Banerjee was arrested under the West Bengal Security Act and detained in jail from January 25, 1949 to April 5, 1949 The company terminated his services on April 22, 1949 on the ground of continued absence. The Appellate Tribunal ordered his reinstatement

on the ground that he had been discharged without a charge and withthout holding an enquiry. This court observed, 'we are unable to agree with the decision. The ground of discharge is continued absence of the employee, and his inability to do work and it is difficult to see what purpose would be served by a formal charge being delivered to him and what conceivable answer he would give thereto. The order of the Appellate Tribunal is manifestly erroneous and must be set aside'. The same principle should apply in the present case. It is true that the arrested men were not in a position to come to their work because they had been arrested by police This may be unfortunate for them, but it would be unjust to hold that in such circumstances the company must always give leave when an application for leave is made..... It is immaterial whether the charges on which the workmen are arrested by the police are ultimately proved or not in a court of law. The company must carry on its work and may find it impossible to do so if a large number of workmen are absent. Whether in such circumstances leave should be granted or not must be left to the discretion of the employer. It may be readily accepted that if the workmen are arrested at the instance of the company for the purpose of victimisation and in order to get rid of them on the ostensible pretext of continued absence the position would be different. That however is not the case here".

6. It is true that in the present case the letter Ext. I(1) did not mention continued absence for over 10 days, but it was mentioned that Banshi Harijan had been sentenced to suffer R.I. for 2 years for subversive and anti-government activities at the colliery. In the letter, Ext. E, the management described the offence as one involving moral turpitude. Mr. Narsingh has referred to the Standing Orders of the company which provides that conviction for an offence involving moral turpitude is a ground on which services of a workman may be terminated. Thus though the ground mentioned in the order terminating Banshi Harijan's services is different from that considered by the Supreme Court in the case cited above, the principle is the same, because it is not possible that the workman should have showed any adequate cause or given a sufficient defence if a chargesheet had been framed against him. In the circumstances it is immaterial that no chargesheet was served on the workman before his services were terminated.

7. Shri Parimal Das Gupta has urged that the offence did not really involve moral turpitude. It is however difficult to define what is moral turpitude In a number of cases, *e.g.*, Durga Singh *V.* State of Punjab (AIR 1957 Punjab 97), Baleswar Singh *V.* District Magistrate, Benaras (AIR 1959 Allahabad 71), Chandgi *Vs.* Election Tribunal (AIR 1965 Punjab 433) it has been held that the term 'moral turpitude' is somewhat vague and may have different meanings in different contexts but the term in general is understood to mean conduct contrary to justice, honesty, modesty or good morals or contrary to what a man owes to a fellow man or society in general. Drunkenness and disorderly behaviour have been held to involve moral turpitude; so also the offence under Sec. 182 IPC of giving false information to the police. But possession of a revolver without license without any evidence of antisocial activities has not been held to involve moral turpitude Trying to foster good will to an invading foreign power and ill will to the National Government must be held to contrary to the duty owed by everybody to the society in general. In that sense the offence of which Banshi Harijan was originally convicted must be held to involve moral turpitude, and it cannot be said that the management took an altogether ridiculous view. It has been urged by Shri Das Gupta that the complaint in this case was drawn up by the then Manager of the colliery and that he wanted to get rid of Banshi Harijan and some other trouble-some workmen who had been making allegations to various authorities against the management. He has referred to a portion of the appellate judgement of the Sessions Judge Ext. G1; referring to the manager Kapil who deposed in the case before the Magistrate Court as P.W. 8, the learned Sessions Judge observed that P.W. 8 admitted that Joyanta Poddar of colliery mazdoor congress was known to him and that he had denied the existence of Colliery Mazdoor Sabha at Girimint colliery although it appeared from the evidence that there is a branch of Mazdoor Sabha in the colliery of which Ambika Panda one of the appellants was the President. Towards the end of his judgement the Sessions Judge stated that P.W. 8 Kapil appeared to have acted from grudge against these appellants, as they did not obey him, and that he had suspended the appellant on different occasions and had transferred Ambika to another colliery. So the Sessions Judge did not rely on the evidence of the Manager to uphold the conviction.

8. But the learned Sessions Judge did not find that the manager had engineered the case falsely in order to get rid of Ambika Panda or Banshi Harijan. Ultimately he said that the case against the two appellants was not proved beyond

reasonable doubt because the evidence was unsatisfactory, and so he acquitted them on the ground of benefit of doubt. The union produced certain documents before the tribunal to show that Banshi Harijan was taking a prominent part in protesting against the action of the management. Ext. 4 is a letter dated 11th September 1963 wherein he protested to the manager against the deduction of money from weekly wages under the compulsory deposit scheme. But the compulsory deposit scheme had been introduced by the Government of India and some deductions had to be made under the scheme from the wages of every person. Therefore Ext. 4 does not show that the management was doing anything wrong. Ext. 5, 6 and 7 are letters written by the Genl. Secretary of the Union, the Colliery Mazdoor Sabha to the Union Labour Minister, Labour Commissioner, New Delhi and other authorities relating to the threats or action taken by the management against 3 persons members of the Colliery Mazdoor Sabha who had given evidence before the Mines Inspector in connection with an accident which had taken place at the colliery on the 19th May, 1962 involving death of a workman. The evidence of Banshi Harijan before the tribunal is that in this connection 3 members of the union, namely Samsuddin, Ramakant and Bhagirathi gave evidence before the Mines Inspector, and therefore the management was displeased with the union and threatened to beat up the members of the union. This is the substance of the contents in the letters, Exts. 5, 6 and 7. The letters Exts. 8, 8(a) and 8(b) show that the Secretary of the union received some replies from the Government officers promising that the alleged victimisation or terrorisation would be enquired into. But no letter was produced to show that any finding was ultimately made by any enquiry officer or that the management was warned or given any punishment for the alleged terrorisation or victimisation. Exts. 9, 9(a) and 9(b) are other letters written on 9th July 1962 11th September 1962 and 19th September, 1962 by the union Secretary relating to the encouragement of goondas by the management and mentioning apprehension of violence at the hand of Colliery Mazdoor Congress of Jayanta Poddar But Ext H shows that some persons of the two unions clashed on 9th September 1962 and it was Banshi Harijan and some other associates of his who were found guilty of rioting and assault by the Magistrate 1st Class, Asansol as admitted by Banshi Harijan in his deposition before the tribunal. I am therefore satisfied from the correspondence produced by the union that the management was not acting in any way particularly hostile to Banshi Harijan, and that it was not the management who engineered the case under Security Act and D.I. Rules against Banshi Harijan and Ambika Panda In the circumstances, the exception mentioned by the Supreme Court cannot be availed of by the union in favour of the workman. Shri P. Das Gupta has urged that in any case when the workman had been acquitted by the Appellate Judge after having been in jail for 2 months and 7 days, the workman ought to have been taken back in the service by the management. But at that time, the rioting case was still pending against Banshi Harijan and shortly thereafter on 18th December 1964 Banshi Harijan was convicted and sentenced to 3 months' R.I. in that case Further, as the management repeatedly pointed out, Banshi Harijan had only been given the benefit of doubt in the case under D I. Rules and Security Act. In the circumstances, it cannot be said that the action of the management in not taking back Banshi Harijan in service was *mulafide* or illegal. Moreover, by the terms of the reference we are only concerned with the question whether the order of termination of service with effect from 7th August 1964 was justified The subsequent history only comes incidentally into the picture and no award could be made on the basis of the history, even if I were to agree with the contention of Shri Das Gupta that the management ought to have taken back Banshi Harijan in their employment after his acquittal by the Sessions Judge of Burdwan under the Security Act case

9. I therefore find that the termination of service of Shri Banshi Harijan, Underground Conveyor Loader of Girimint Colliery with effect from 7th August 1964 was justified and therefore Shri Banshi Harijan is not entitled to any relief in this case

Dated
25th April 1967

(Sd.) S. K. SEN,
Presiding Officer
[No 6/31/65-LRII.]

New Delhi, the 6th May 1967

S.O 1699.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No 2, Calcutta, in the industrial dispute between the employers in relation to the Radhamadhavpur Colliery of Messrs Ghusick and

Muslia Collieries Limited, Post Office, Kalipahari, District Burdwan and their workmen, which was received by the Central Government on the 3rd May 1967

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCES NOS. 78 & 79 OF 1966

PARTIES:

Employers in relation to Radhamadhavpur Colliery of Messrs Ghusick and Muslia Collieries Limited.

AND

Their workmen

PRESENT:

Shri S. K. Sen—Presiding Officer

APPEARANCES:

On behalf of employers.—Shri M. P. Roy.

On behalf of workmen.—Absent.

STATE: West Bengal. INDUSTRY: Coal Mines.

AWARD

By Order No. 8/77/65-LRII-A-II dated 30th December 1965 the Central Government referred for adjudication a dispute between the employers in relation to Radhamadhavpur Colliery of Messrs Ghusick and Muslia Collieries Limited, P.O. Kalipahari, Dist. Burdwan and their workmen represented by the Colliery Mazdoor Sabha, Asansol, arising from the retrenchment of Svs. Ramsudarsan Dusad, Timber Mazdoor, Ramnagina Shaw, Timber Mistry and Bakhori Ram, Timber Mazdoor. By Order No 8/77/65 LRII-A-I dated 30th December 1965 the industrial dispute between the parties arising from the retrenchment of Shri Balaswar Singh, Timber Mistry, was also referred for adjudication. As the retrenchment order in respect of all the 4 workmen were passed on the same date and in the same circumstances, the two cases are taken up together.

2 The case of the union in respect of the workmen in both the cases is briefly as follows:

That the workmen had been working in their respective capacities as Timber Mistry or Timber Mazdoor faithfully but that the management was displeased with them as they became prominent members of the unit of the Colliery Mazdoor Sabha. Asansol established at Radhamadhavpur colliery and brought pressure on them to leave the union but they refused to leave the membership of the unit Accordingly, so far as Balaswar Singh is concerned, the union's case is that he came back from leave on 17th June 1965 and sought to resume his duty but he was not allowed to do so, but was served with a retrenchment notice which was unjustified and in violation of provisions of Industrial Disputes Act In respect of the other three workmen, the union stated that they received letters from the Agent that they would be retrenched with effect from 12th June 1965 as per letter dated 13th May. 1965, but letters of 13th May had not been received by the workmen; Ramnagina Shaw received the order of retrenchment by a letter dated 2nd June 1965 and Bakhori Ram received the order by letter dated 28th May, 1965. According to the Union the retrechment orders passed on the three workmen were illegal and in violation of the provisions of the Industrial Disputes Act.

3. The case of the management is briefly as follows:

The stage of development of Radhamadhavpur colliery is long over and de pillaring operation has been going on for some time. For the purpose of de pillaring the colliery area was divided into certain sections or panels and when the de-pillaring of all the sections or panels is over, the colliery would be completely exhausted. At first de pillaring of two panels at a time was taken up but after G & H panels had been taken up together for de-pillaring, it was decided that only one panel would be taken up for de-pillaring thereafter. De-pillaring of G panel which commenced on 3rd June 1964 was completed by 27th April 1965. At that time de-pillaring in H panel was going on and as there was no scope for taking up another panel for de-pillaring a number of workmen became surplus Thereupon a list of workmen according to categories was prepared as required by Rule 77 of the rules under the Industrial Disputes Act The workmen concerned in these two cases belonged to the categories of timber mistry and timber mazdoor.

At that time, i.e. in April and May, 1965, the company had 10 timber mistries and 20 timber mazdoors in service A list of all of them arranged in order of seniority was prepared and 2 of the timber mistries and 4 of the timber mazdoors were given notice of retrenchment being surplus to the requirement of the company These notices were issued to individual workmen on 13th May 1965 and a notice was also hung up on the same day on the Notice Board of the colliery office that these 6 persons were to be retrenched with effect from 12th June 1965. They were also offered the retrenchment compensation as required under Sec. 26F of the Industrial Disputes Act. In the circumstances, according to the company, the retrenchment was done in strict accordance with the Industrial Disputes Act and the rules made thereunder and no illegality was committed by the company.

4. The cases were fixed for hearing on 17th and 18th April 1967. On 17th April no representative of the union appeared but on 18th April, the union was represented by Shri Sunil Sen and by Shri Parimal Das Gupta, Advocate and they cross examined two witnesses examined for the management and asked for time to produce the union's witnesses and the cases were thereupon adjourned to 29th April 1967. On 29th April 1967 though the representative of the management was present, representatives of the union failed to turn up, apparently because the union realised that the retrenchment was done strictly in accordance with law and no relief can be expected as the result of the adjudication. The cases accordingly have been taken up *ex-parte*.

5 On behalf of the management the list of all the workmen of the categories of timber mistries and timber mazdoor which was prepared on 13th May, 1965 and hung up on the Notice Board with the observation that two timber mistris and 4 timber mazdoors, had become surplus and would be retrenched as no alternative job could be found for them, has been produced and marked Ext A. The individual letters to the workmen concerned have been proved and marked as Ext B, B1, B2 and B3 In these individual notices which are all dated 13th May 1965 each workman was informed of the reason for the retrenchment and was asked to receive his final payment on the expiry of the notice period Shri Parimal Das Gupta on 18th April 1967 challenged the accuracy of the order of seniority as noted in the list Ext A and thereupon the representative of the management was asked to produce the B form register maintained at Radhamadhavpur colliery for all the workmen for 1965 On 29th April 1967, Shri M. P. Roy, representative of the management, produced the B form register for 1965 and although no representative of the union was present, I inspected the register and satisfied myself that the list, Ext. A has been prepared in the proper order of seniority. As regards the evidence of the two witnesses of the management that the colliery is at the de-pillaring stage and is practically exhausted, that evidence has not been challenged at all. In the circumstances, it must be held that the order of retrenchment was properly and legally made and was fully justified.

6. My award therefore in Reference No 78 of 1966 is that the retrenchment of Svs. Ramsudarsan Dusad, Timber Mazdoor, Shri Ramnagina Shaw, Timber Mistry and Bakhori Ram, Timber Mazdoor of Radhamadhavpur colliery was justified and therefore the workmen are not entitled to any relief.

7. My award in Reference No 79 of 1966 is that the stoppage of work and issue of retrenchment notice to Shri Balaswar Singh, Timber Mistry of Radhamadhavpur colliery was justified and therefore the workman is not entitled to any relief.

[No. 8/77, 65-LRII-A.]

Date

29th April 1967.

(Sd.) S. K. SEN,

Presiding Officer

S.O. 1700.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Andhra Pradesh, Hyderabad, in the industrial dispute between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudium collieries and their workmen, which was received by the Central Government on the 2nd May, 1967.

BEFORE THE INDUSTRIAL TRIBUNAL, ANDHRA PRADESH, HYDERABAD

PRESENT:

Shri Mohammad Najmuddin, M.A., L.B., Chairman, Industrial Tribunal Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE No. 22 OF 1966

BETWEEN

Workmen of Singareni Collieries Company Ltd., Kothagudium.

AND

Employers of Singareni Collieries Company Ltd., Kothagudium.

APPEARANCES:

Sri M. V. Ramakrishna Rao, Assistant Personnel Officer—*for the Employers.*
None—*for the Workmen.*

AWARD

The Government of India in its Ministry of Labour, Employment & Rehabilitation (Department of Labour & Employment) had, by order No. 7(9)/66-LRII, dated 14th March, 1966, referred this case to me for adjudication. The issues as per Annexure to the Notification are these:—

1. Having regard to the duties performed and responsibilities shouldered by Sarvashri Raghbeer Singh, M. Iqbal Shariff, Gopalkrishnamurthy, S. Gopal Dubey, K. V. Raghavaiah, Ch. Anandam, G. Venkateswarlu, K. R. Solomon, B. Rajarathnam, N. P. Ramaswamy and Lokanathan, clerks working in the main stores at Kothagudium of Singareni Collieries Company Limited, whether the management of the aforesaid company is justified in not allowing the grade of Rs. 70—158 to them?

2. If not, to what relief are these workmen entitled and from what date?

2. Statement of claims on behalf of the claimant-workmen was filed by Mr. S. Rami Reddy, General Secretary, Andhra Pradesh Colliery Mazdoor Sangh, Kothagudium. The Mazdoor Sangh is party to the reference. The Management had filed counter. The dispute came up for enquiry today. Anybody on behalf of the workmen is not present, but Mr. Ramakrishna Rao, Assistant Personnel Officer, is present on behalf of the Management. He presented a Memorandum of Settlement dated 24th April 1967. It is signed by Mr. S. Rami Reddy, General Secretary, and Mr. Y. Sriramamurthy, Vice President of the Mazdoor Sangh, representing the claimant-workmen. Mr. B. G. Pradhan and Mr. N. Bhaskarachary signed it on behalf of the Management. They are respectively Deputy General Manager and Chief Personnel Officer. Two witnesses have attested it. They are Mr. D Subrahmanyam and Mr. Ch. U. B. Jai Bhanudu.

3. The names of the 11 claimants whose names find mention in Issue 1 in the reference are set out as Nos. 1 to 11 at page 1 of the Memorandum of Settlement. It is stated in paragraph 1 of the Terms of Settlement that Ch. Anandam who is No. 6 died on 6th January 1966. It is stated therein that Iqbal Shariff and K. V. Raghavaiah, who are respectively Nos. 2 and 5, have already been promoted with effect from 3rd February 1966 in accordance with general seniority. It is stated in paragraph 2 of the Terms of Settlement that Raghbeer Singh, K. R. Soloman, N. P. Ramaswamy and B. Lokanathan would be promoted as Senior Clerks in the pay scale of Rs. 70—158 with effect from 1st April 1967. Regarding the remaining 4 workmen in the list it is stated in paragraph 3 of the Terms of Settlement that as they have reached the maximum in their grade in only the year 1966, they would not be entitled to promotion to the higher grade of Rs. 70—158, and that therefore the Mazdoor Sangh had agreed not to press their claim. In paragraph 4 of the Terms of Settlement it is stated that the Management agreed to pay to the Mazdoor Sangh Rs. 100/- towards expenses incurred by it in the dispute. I am satisfied that the terms of settlement are fair between the parties.

4. Award is herewith passed in the terms of the Memorandum of Settlement dated 24th April 1967, a copy whereof is appended hereto.

Given under may hand and the seal of the Tribunal, this the 25th day of April, 1967

(Sd.) M. NAJMUDDIN,
Industrial Tribunal.

APPENDIX

Memorandum of settlement arrived at in I.D. No. 22 of 66 between the Management of the Singareni Collieries Company Limited and their workmen represented by the Andhra Pradesh Colliery Mazdoor Sangh under the Industrial Disputes Act, 1947 on 24th April 1967 in the Office of the Deputy General Manager, S.C. Co. Ltd., Kothagudium.

NAMES OF THE PARTIES

Representing the Management:
(Singareni Collieries Co. Ltd.)

1. Shri B. G. PRADHAN, Dy. General Manager.
2. Shri N. BHASKARACHARY, Chief Personnel Officer.

Representing the Workmen:
(Andhra Pradesh Colliery Mazdoor Sangh)

1. Shri Y. SREERAMA MURTHY, Vice-President.
2. Shri S. RAMI REDDY, General Secretary.

Short recital of the case

The General Secretary, Andhra Pradesh Colliery Mazdoor Sangh by his letter No. V/K/MS(I)65/112, dated 8/21st May, 1965 raised an Industrial Dispute regarding the granting the grade of Rs. 70—5—90—6—102—EB—8—158 to the following 11 clerks since according to them they are working as Section Incharges in the Main Stores at Kothagudium.

1. Sri Raghbeer Singh.
2. Sri M. Iqbal Shariff.
3. Sri Gopal Krishna Murthy.
4. Sri S. Gopal Dubey.
5. Sri K. V. Raghavaiah.
6. Sri Ch. Anandam.
7. Sri G. Venkateswarlu.
8. Sri K. R. Soloman.
9. Sri B. Rajaratnam.
10. Sri N. P. Ramaswamy.
11. Sri B. Lokanathan.

This matter was finally taken up by the Regional Labour Commissioner (C), Hyderabad on 29th December 1965. The Management representative pleaded that the workmen herein concerned are not Section Incharges but only Store Clerks and as such they were not entitled for the demanded grade.

On receipt of the failure report from the Regional Labour Commissioner (C), Hyderabad, the Government of India by their Notification No. 7/9/66-LRII, dated 14th March 1966 (S.O. 821) referred this dispute for adjudication to the Central Government Industrial Tribunal, Hyderabad. This case was registered as I.D. No. 22 of 66 by the said Tribunal. In order to arrive at a mutual settlement, discussions were held by the parties on 24th April, 1967 and a settlement was reached mutually on the following terms and conditions.

Terms of Settlement

1. Out of the 11 workmen listed in the Sangh's statement of claim, Shri Ch. Anandam expired on 6th January 1966 and M/s. Iqbal Shariff and K. V. Raghavaiah were promoted as Sr. Clerks in the grade of Rs. 70—5—90—6—102—EB—8—158 in the Stores Accounts Section with effect from 3rd February 1966 as per the general seniority. As such the Sangh agrees that there is no claim for these 3 workmen.

2. Out of the 8 workmen left it is agreed that taking into account their rank in the general seniority and all other circumstances into account, the Management would promote M/s. Raghbeer Singh, K. R. Soloman, N. P. Ramaswamy and B. Lokanathan who reached the maximum of their grade in 1959/60, as Sr. Clerks in the grade of Rs. 70—5—90—6—102—EB—8—158 with effect from 1st April 1966 on the understanding that the Management will be free to re-arrange the sections and reorganise the work as they consider desirable.

3. It is also agreed that taking all circumstances into account, the remaining four workers listed in the schedule who reached the maximum of the grade only in the year 1966 are not entitled to promotion to the grade of Rs. 70—5—90—6—102—EB—6—158 and hence the Sangh agreed to drop their cases.

4. The Management agrees to pay a sum of Rs. 100/- to the Sangh towards the expenses incurred by them in this ditpute.

5. All the claims put forth by the Sangh in the dispute and the issues raised by them thus stand fully settled.

6. Both the parties agreed to pray the Hon'ble Industrial Tribunal (C), Hyderabad to record this settlement of compromise and pass an award in terms of this settlement.

SIGNATURES OF THE PARTIES:

Representing the Management:
1. Sd/- B. G. PRADHAN.
2. Sd/- N. BHASKARACHARY.

Representing the Workmen:
1. Sd/- Y. SREERAMA MURTHY.
2. Sd/- S. RAMI REDDY.

Witnesses:—
1. Sd/- D. SUBRAHMANYAM.
2. Sd/- Ch. U. B. JAI BHANUDU.

Kothagudium Collieries, D/24, April, 67.

(Sd.) M. NAJMUDDIN,
Industrial Tribunal.

[No 7(9)/66-LR.II.]

ORDER

New Delhi, the 5th May 1967

S.O. 1701.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bejdih Colliery of Messrs Equitable Coal Company Limited, Post Office Dishergarh, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, No. 2, Calcutta, constituted under Section 7A of the said Act

SCHEDULE

Whether the transfer of Shri Nabin Chandra Patra, Lamp Issue Clerk from Bejdih Colliery to Bhanora Colliery from the 13th November, 1964 and his subsequent dismissal from the 8th February, 1965 by the management of Bejdih Colliery were justified? If not, to what relief is he entitled?

[No. 6/51/66-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 3rd May 1967

S.O. 1702.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of (Shri D. Pandae, Arbitrator, in the dispute between the employers in relation to Shri Tikam Chand Jain, Contractor, Kokan Mines, Dallirajhara and their workmen which was received by the Central Government on the 14th April, 1967.

BEFORE THE REGIONAL LABOUR COMMISSIONER (CENTRAL), JABALPUR AND ARBITRATOR

PRESENT:

Shri D. Panda, Regional Labour Commissioner (Central).

In the matter of arbitration of an industrial dispute under Section 10A of the Industrial Disputes Act, 1947.

PARTIES:

M/s Tikam Chand Jain Contractor, Kokan Mines, Dalli-Rajhara (Dist. Durg—M.P.).

Versus

Their workmen numbering 30 represented by Samyukta Khadan Mazdoor Sangh, Dalli-Rajhara.

APPEARANCES:

Representing the employer:

1. Shri Namdev D. Kamle, partner Tikam Chand Jain.
2. Shri Gyanchand Bafna, Accountant.

Representing the workmen:

Shri Ganpat Rao, Joint Secretary, Samyukta Khadan Mazdoor Sangh.

AWARD

By an arbitration agreement, dated 27th October, 1966, under Section 10A of the Industrial Disputes Act, published by the Government of India by their order No. 37/22/66-LR-I, dated 21st January, 1967, under Sub-Section (3) of the said section of the said Act, the parties above-named referred the following specific matter in dispute to my arbitration:—

"Whether the termination of employment of the miners whose names are given in Annexure 'A' by Shri Tikam Chand Jain, Contractor, Kokan Mines of Bhilai Steel Plant from the date shown against their names in the said annexure was legal and justified, if not what relief are the workmen entitled to?"

ANNEXURE A

1. Rama Rao S/o Bajirao	Employment terminated from 11-7-1966
2. Bhagwati w/o Ramarao	-do-
3. Lathkhore s/o Rambharose	-do-
4. Sansarabai w/o Lathkore	-do-
5. Kanglu s/o Firtu	-do-
6. Sundaria Bai w/o Kanglu	-do-
7. Paltan s/o Sukhram	-do-
8. Biswasabai w/o Sobharam	-do-
9. Bisram s/o Harichand	-do-
10. Sonabai w/o Bisram	-do-
11. Anupram s/o Mukundi	-do-
12. Lakhan s/o Anupram	-do-
13. Rapbati w/o Anupram	-do-
14. Daduram s/o Gosai	-do-
15. Sunderbai w/o Daduram	-do-
16. Basantin d/o Daduram	-do-
17. Latkhore s/o Sukhram	-do-
18. Bahura Bai w/o Latkhore	-do-
19. Udyram s/o Gopal	-do-
20. Manhtinbai w/o Gopal	-do-
21. Ramprasad s/o Lilaram	-do-
22. Sirdesi s/o Paltam	18-7-66
23. Phool Singh s/o Kartik	-do-
24. Laxman s/o Milap	-do-
25. Smt. Rambha w/o Sahdeo	-do-
26. Shri Sahdeo s/o Ratan	-do-
27. Tilak s/o Tularam	-do-
28. Dasru Raisingh	-do-
29. Pingal s/o Kabal	-do-
30. Smt. Kaphi w/o Bakhariya	-do-

2. The parties were requested on 10th February, 1967, to submit their respective written statements within 10 days endorsing a copy thereof to the other

party. The union submitted its written statement on 3rd March, 1967, wherein it was stated that the contractor had served vague notices on the workmen appearing at Sl. Nos. 9, 10 and 21 of the Annexure to the Arbitration Agreement by his letter, dated 13th June, 1966 and the notice served on the last worker was unauthenticated. The union in response to the vague notices replied on behalf of the workmen on 28th June, 1966, requesting the withdrawal of the illegal notices; on 4th July, 1966, the contractor displayed a notice on the notice board stating that the services of the 21 workmen were no longer required and would stand terminated with effect from 11th July, 1966; the union requested the contractor to withdraw the illegal termination notice and to refer the matter to the Central Labour Machinery; on 9th July, 1966, termination notices by registered A/D posts were received by some of the workmen; the termination of services of workmen in question as revealed from the notices was effected on the alleged plea of producing less than the so called standard production; nothing has been made clear in the notices as to what was the so called standard production the workers were supposed to give; nothing sort of productivity of raising workers employed in the Iron Ore Mines of B.S.P. at Rajhara has been prescribed by any of the Contractors; there is no contract between the workmen and the contractor in respect of quantum of production; the workers are piece-rated and they are being paid their wages on the basis of the work done by them and the question of quantum of production in their case does not arise; the notices were unsigned and in some cases and majority of the workers have not received the notices and no clarification was given by the Contractor on the request made by the union about the alleged short fall in production; in the notice required to be given under Payment of Wages Act, the contractor had mentioned the rate of wages only without any mention of norms or quantum of productivity; the only reason behind the termination of services of these workers is that they demanded payment as per the recommendations of the Wage Board, which had been accepted by the contractor as per the terms of contract between him and the B.S.P. management which the contractor was reluctant to consider; these workers were on the fore front for focussing the demand for payment as per Wage Board's recommendations and in order to get rid of them this drastic action was taken by the contractor. The employer submitted a written statement on 16th March, 1967, regretting therein the delay in its submission due to the office clerk remaining out of headquarters, stating therein that the workmen in dispute along with others were taken up in employment by the contractor with a clear understanding orally that they would produce 25 cft. as daily average production for the first few weeks they worked according to the terms settled as aforesaid, but later on under persuasion of the union or any one best known to them they used to get the attendance and avoid the work as much as possible effecting loss to the employer and against the terms of their employment; the employer called them and orally persuaded them to work honestly and as settled; inspite of this they avoided and eventually the employer was compelled to serve them notices on 13th June 1966, 21st June 1966 and 27th June 1966 calling upon them to improve their production and in failure their services would be terminated; in response to the notices some of the workmen increased their production and no action was taken against them, who are still in employment, but the workmen in dispute did not improve and as such their services were terminated in the next week; thereafter they refused to accept the payment which was remitted through money orders; copies of termination orders were also sent to the Mines Manager and Labour Enforcement Officer (Central), Raipur for information. In reply to the various points raised by the union, the contractor stated that though according to the law no notice was required to be given, the workers were orally told to increase their production at least 25 cft. per day which had been agreed between them and the employer when they were taken up in employment; if the employees in dispute were not in know of the standard production, they could have noticed the employer when they received the first or second, or third notice as to what was the quantum of production; the notice was firstly refused by the employees when tendered by hand; and the employees had not worked even for six months in the establishment.

3. During the hearing the management stated that the workers were told at the time of recruitment that they should fill more than ½ farma a day. As the workers did not give this performance a notice was issued to all workers for increasing production. Three notices were issued to them. The management removed the 30 workers in question as they did not give the required production while the management had to pay them at the rate of Rs. 2:50 per day as per Wage Board recommendations according to the attendances. Due to less production, the difference paid became very high and as such the concerned workers were removed from service. The management produced copies of notices and two witnesses Shri Sukhlal and Nusaram, who were examined and cross-examined by the union.

4. The Union's case during the hearing was that all the workers are piecerated and they are paid according to their actual production. No standard or norm was laid down. The Wage Board recommendation for interim relief increasing wages to Rs. 2·50 per day became effective from 1st January 1964 and as this employer did not implement the same, the union gave notices to all contractors and resorted to hunger strike from 26th February 1966 to 28th February 1966 and a token strike on 28th March 1966 and strike for five days from 20th April 1966 to 24th April 1966 followed by pay strike on 2nd July 1966. The management have not implemented the first interim relief. In the meantime, second interim relief raising the wage rate by another 50 paise per day with effect from 1st April 1966 was awarded by the Government The union gave a notice to this management on 30th August 1966 stating that the first interim relief had been implemented and the second relief has been granted. The management have not even given the first interim relief so far. The management took action to remove the 30 workers as they were all active workers or family members of active union workers working in gangs. It was open to the management to take disciplinary action in accordance with the standing orders for giving less production though the union does not agree that there was less production. The management have not framed their Standing Orders. As such, Standing Orders are applicable to them as per Section 12A of the Industrial Employment (Standing Orders) Act. The action of the management is illegal unjustified and is a clear case of victimisation. The union stated that the contractor is very much aginst their union activities and this is further proved by their refusal to accept the written statement sent by Registered A/D in this arbitration case. (The written statement was, however, given in my presence to the management). The union produced the envelope containing the postal remark "refused" (Ext. A).

5. The management stated that they gave three notices to the workers. The first notice dated 13th June 1966 (Ex. I. IA & IB) was received by three persons *viz.* Bisram, Sonabai and Ram Prasad and others refused to receive them. The second notice dated 21st June 1966 (Ext. II in 21 sheets) was served but none accepted them. The third notice dated 27th June 1966 (Ext. III in 27 sheets) was also not received by any body. A notice was put on notice board (Ext. IV) on 20th June 1966 inviting the attention of the workmen to the notice dated 13th June 1966 and stating that unless they perform work as per minimum wages, they would be removed from service. Another notice dated 2nd July 1966 was put on notice board (Ext. V) Final notice of termination of services was given on 2nd July 1966. as per Ext. VI (in 9 regd. covers) terminating their services from 11th July 1966, All the notices were sent with Regd. A/D, 12 of them were received by the workers and 9 were returned undelivered. Some were returned with the postal remarks "refused" "not known" "not found". Similar notice dated 9th July 1966 (Ext. VII—in nine sheets) was issued to the remaining 9 workers terminating their services from 18th July 1966. All these notices were received by the workers served by hand. Another notice Ext. VIII was put on notice board, asking the workers to receive their final payment. The management were not aware of the provisions of the model standing orders at that time for drawing up disciplinary proceedings against the workers. The copies of notices were given to the Mines Manager and no instructions were issued by him in this respect. A copy of the notice dated 2nd July 1966 was also sent to the Labour Enforcement Officer (Central), Raipur. (The number of workers at the time when these workers were removed was 315. The number of workers at present employed is 435 The contract was taken on 23rd October 1965. The maximum strength was in February, 1966, at 450).

6. The union representative stated that the work started in October 1965 and the workers were giving their production all along. It is only in June 1966 after the union agitated for implementation of Wage Board recommendation that the management started issuing notices in order to get rid of the employees who were taking active part in the agitation. The second and third notices were not served on individuals, but were later drafted by the management as an after-thought. The workers were all in the mines and there was no need to send the final notice of termination by Regd. A/D post. However, 12 workers received the notices through Regd post and the others did not get them as they were sent in their village addresses where they were not available.

7. The management produced a statement to show that the production of other workers increased after the removal of the workers concerned. The union did not accept this statement. The management produced another notice addressed to 4 workers about less production and inviting their suggestion for change of mine place The union invited attention to their letter dated 8th July 1966 addressed to the management suggesting for an enquiry by the Labour Enforcement Officer (C), Raipur about the less production. The management representative stated

that they did not take any action on the same as they had already issued termination letters by then. The union representative further stated that they had written to the management on 28th July 1966 enquiring details of less production alleged by them against the workers. To this no reply was given by the management In none of the notices to the workers, they were told about the norm of production or the less production given by them individually.

8. On a study of the contentions of the parties, it is observed that the termination of services of the workmen concerned were resorted to as a punitive measure on the charge of not giving production to a certain standard, which means 'slowing down' production. As the employer has not got any standing orders certified for application to the establishment under the Industrial Employment (Standing Orders) Act, 1946, the establishment is automatically governed by the model standing orders appended to the Industrial Employment (Standing Orders) Central Rules, 1946, by virtue of section 12A of the Industrial Employment (Standing Orders) Act. The list of misconducts prescribed under clause (2) of Order No. 14 of the model standing orders for the purpose of suspending or dismissing a workman does not provide for the misconduct of 'slowing down" but there is a provision regarding 'habitual negligence' or 'neglect of work'. If the workmen, as contended by the employer, were habitually neglecting their work, they could be liable for action for this misconduct. But under clause (4) of the said order it has been provided that no order of dismissal shall be made unless the workman concerned is informed in writing the alleged misconduct and is given an opportunity to the workmen concerned to explain the circumstances alleged against them has not been fulfilled as none of the notices served on them, copies of which were furnished by the employer and marked Exts. I and II provide an opportunity to the workmen concerned to explain the circumstances alleged against him On this score alone the dismissal order passed by the employer becomes illegal. Since the procedure of dismissal prescribed in the model standing order is designed to afford natural justice to the workmen concerned, the management's action in dismissing the workmen without following the said procedure is rendered unjustified. The employer's contention that the workers were orally told at the time of employment that they should give 25 cft. production every day is also not proved by the evidence adduced through their witnesses. Sri Shuklal, miner who is still continuing in employment for having improved in production, deposed in cross-examination that he was filling 5 forms in a group of two prior to the receipt of notice and continued to give the same production even after the notice was given and that the employer has never told the workers at the time of appointment about the norm of production. The other witness Shri Nusaram has, however, vaguely told that "Babulog" had told the workers at the time of recruitment that each should fill ½ farma a day and when again enquired he said that 'Valmik Babu' told him. He has also told that the employer has been now providing blasting holes as a result which the production is increased. He denied the contention that the workers were being paid as per the Wage Board recommendation a minimum of Rs. 2·50 a day and said that they are being paid according to production. In none of the notices issued by the employer the standard production expected from the workmen concerned was furnished. English translations of the three common notices issued to the workers including the termination notice (Exts. 1, II and VII) are given below—

Notice dated 13th June 1966

"You are hereby informed by this notice that you have given less production during the week ending 11th June 1966 which is not in accordance with the minimum wages. Therefore you are advised to improve your work.

If you are not going to improve your production within a week, your services will be terminated from the mines".

Notice dated 21st June 1966

"You have been given notice on 13th June 1966 that your production is less than the minimum wages. But you have not improved the production so far. Therefore you are informed lastly that if you will not give production according to the minimum wages within this week, your services will be terminated under compulsion".

Notice dated 9th July 1966

"You are working in our mine as a piece rate worker. The production given by you is much lower than the standard production. Therefore we have to suffer a heavy loss.

Your services are being terminated with effect from 18th July, 1966 as the same is no longer required by us".

The proof of the workers giving less production by slowing down the work or habitually neglecting their work and thereby committing misconduct liable for disciplinary action under the Standing Orders should have first been established by calling for the explanations of the workers concerned for such misconduct before awarding the extreme punishment of removal from service. I have also examined the position whether the action of the emplpoyer could be termed as retrenchment or termination simpliciter During the hearing the employer stated that the contract was taken on 23rd October, 1965 when the work was started and the number of workmen employed in the establishment when these workmen were removed was 315, the maximum strength of workmen employed in the establishment being 450 in February 1966 and the strength on the date of hearing was 435. There has thus been increase in the establishment after the removal of these workers and if the action of the management is treated as retrenchment, all these workmen should have been re-employed in preference to fresh recruits as required under Section 25-H of the Industrial Disputes Act. As such, the case is not covered by the provisions of retrenchment as defined under Section 2(00) of the Industrial Disputes Act. As regards termination simpliciter, since the workmen concerned had been in employment from October 1965 and had put in more than 3 months service at the time of their removal, they should be deemed to have become permanent as per Clause (b) of order 2 of Model Standing Orders. According to Model Standing Order No. 13 dealing with termination 'simpliciter' for terminating the services of a permanent workman, one month's notice in the case of monthly paid workmen and two weeks' notice in the case of other workmen is necessary. Even if these workers are deemed to be weekly or daily paid, the requiremnt regarding service of two weeks' notice has not been satisfied as the notice for terminating the services of some workmen from 11th July, 1966 was given on 2nd July 1966 and that for terminating the services the others from 18th July, 1966 was given on September, 1966. As such this is a clear case of dismissal for misconduct. In the absence of any show cause notice issued to the workmen, I cannot but hold that the order issued by the employer terminating the services of the 30 workmen is illegal as well as unjustified. Consequently, the workmen concerned are entitled to reinstatement. Under such circumstances where the order terminating the services is illegal, the workers should be deemed not to have been removed from employment and shall, notwithstanding the termination order, be treated as contunuing in employment. But as the question of relief has also been left for my arbitration. I am not inclined to take a strictly legal view. There may be some truth in the statement of the contractor that the workers are employed elsewhere though this fact has not been adequately proved. Even then, it cannot be said that all these workers secured full employment immediately after termination without any idleness. One of the workers is reported to have died in the meantime, thus leaving the case of 29 workers for consideration The employer's representatives were mentioning during the hearing that they would soon be closing their establishment. I feel that the ends of justice would be properly met if all these 29 workers are reinstated and each of these workmen is paid a lumpsum amount of Rs. 300 as compensation for the period of un-employment which would roughly work out to 4 months' wages for the period of roughly nine months' idleness If the employer is not in a position to employ all these workers due to reduction of establishment, it is open to him to take recourse to retrenchment after following the procedure laid down under the Industrial Disputes Act by paying retrenchment Compensation and giving notice or notice pay over and above the lumpsum payment of Rs. 300 awarded to each worker. All these 29 workers shall be treated as on duty from the dates of their removal still the dates of their reporting back to duty or till they are served with retrenchment notices as the case may be, for the purpose of all legal benefits. In the event of retrenchment, the principle of 'first come last go' must be observed taking into consideration the length of service of these 29 workmen *vis-a-vis* the length of service of the 435 workmen at present employed in the establishment I award accordingly.

Jabalpur

(Sd.) D. PANDA,
Regional Labour Commissioner (Central).

Dated 11th April 1967.

[No. 37/22/66-LRI.]

A. L HANDA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 3rd May 1967

S.O. 1703.—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947) read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby appoints Shri J. C. Bagai, a person nominated by the Indian Mining Association, as a member of the Advisory Committee *vice* Shri J.R.T. Niemeyer resigned, and makes the following further amendment in the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 4380 dated the 23rd December, 1964, namely:—

In the said notification, for the entry against serial No. 7, the following entry shall be substituted, namely:—

"Shri J.C. Bagai"

[No. 3/4/67-MII.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 4th May 1967

S.O. 1704.—Whereas the employers in relation to the Mica Mine Owners of Bhilwara (Rajasthan) and their workmen represented by Khan Mazdoor Congress, Bhilwara have jointly applied to the Central Government under sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) for reference to a Tribunal of an industrial dispute that exists between them in respect of the matter set forth in the said application and reproduced in the Schedule hereto annexed;

And, whereas the Central Government is satisfied that the said Khan Mazdoor Congress, Bhilwara represents the majority of the said workmen;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal-*cum*-Labour Court, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Without prejudice to the statutory minimum wages which are subject of Writ petitions pending before the High Court of Judicature for Rajasthan at Jodhpur, to what further increase the workmen employed in the Mica Mining Industry of Bhilwara District are entitled in the existing wage rate keeping in view the capacity of the industry to pay and taking into account the *ad hoc* increase of Rs. 5/- (Rupees Five) for time rated employees [to bring the *ad hoc* increase to Rs. 10/- (Rupees Ten) since April, 1964] and the *ad hoc* increase to piece rated workers raising their wage rate to 40 paise per kilogram of cut Mica with effect from 1st October, 1966?

[No. F. 20/10/66-LR.I.]

S.O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Calcutta in respect of an application under Section 33A of the said Act filed by Shri Lalta Prasad Ojha, *ex*-Jamadar of the Allahabad Bank Limited, Katra Branch, Allahabad, which was received by the Central Government on the 27th April, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

MISC. APPLICATION No. 22 OF 1966

(Arising out of Ref. No. 144 of 1966)

PARTIES:

Shri Lalta Prasad Ojha, C/o. Shri Haresh Pd. Pandey, Allahabad Bank Ltd. (Howrah Branch) 17/18, Netaji Subhas Road, Howrah—*Applicant.*

Vs.

The General Manager, Allahabad Bank Limited, 14, India Exchange Place, Calcutta-1—*Opp. Party.*

PRESENT:

Shri S. K. Sen—Presiding Officer.

APPEARANCES:

On behalf of applicant—Shri H. N. Singh, Vice-President of the Hindustan Commercial Bank Karmchari Sangh.

On behalf of Opp. Party—Shri A. N. Roy Choudhury and Shri S. K. Khanna.

STATE: West Bengal INDUSTRY: Banking.

AWARD

This is an application under Section 33A of the Industrial Disputes Act filed by Shri Lalta Prasad Ojha, ex-Jamadar of the Allahabad Bank Limited, Katra Branch, Allahabad. He was served with a chargesheet dated 15th February 1965, therebeing two charges against him. The first charge was that being entrusted with the duty of encashing postal orders deposited by a constituent of the bank for credit to his account, he kept the proceeds with him for various periods from 8 months to 12 months before paying in the same into the cash department of the bank. The details of the 147 postal orders entrusted to him between October 1963 and December 1963 and the date when the amount was credited to the cash department of the bank are given in the chargesheet. The second charge against him was that being entrusted with the sum of Rs. 183.80 on 25th June 1964, for payment of a telephone bill he kept the money with him and made the payment on 3rd September 1964 after the telephone office had sent a reminder as to the non-payment of the bill. An enquiry was held by Shri K. B. Saxena who was appointed by the Assistant Genl. Manager to hold the enquiry. The enquiry commenced on 6th October 1965 and was concluded on 19th October 1965, and on 30th November 1965 the enquiry officer submitted his report finding that both the charges were fully proved. An order of dismissal was passed on 8th February 1966 on Lalta Prasad Thereafter Lalta Parsad filed an appeal, and the appellate authority in consideration of the fact that Lalta Prasad had worked for 24 years in the bank and that there had been no other report or complaint against him, altered the order of dismissal into one of discharge and directed that he be paid one month's pay in lieu of notice. The order was communicated by a letter dated 11th May 1966.

2. On 13th December, 1966 Lalta Prasad filed the application under Section 33A of the Industrial Disputes Act, alleging that the management had contravened the porvisions of Section 33(2) (b) of the Industrial Disputes Act, because a dispute between the bank authorities and the employees relating to additional bonus for the years 1956 to 1961, was then pending before the tribunal. Lalta Prasad in his petition alleged that the enquiry officer was biased against him and had not actually acted independently and impartially; that the petitioner was not given a fair opportunity to cross-examine the management's witnesses and that the enquiry had been conducted on some dates in his absence; that he was not given the opportunity to go through the documents on the basis of which the charges were framed; that copies of documents had been used at the enquiry without giving an opportunity to the petitioner of seeing the originals in order to ascertain whether his genuine signature occurred thereon; and that when the enquiry officer went for inspection of documents to the post office where the postal orders had been cashed, the petitioner was not taken along with the management's representative. The petitioner further stated that as regards the charge of keeping the money of the telephone bill with him for about 3 months it was a case of pure forgetfulness; he had kept the money in a drawer and forgot about it until a reminder came and he had no *malafide* intention in respect of this money. The petitioner therefore urged that apart from violation of Section 33(2) (b) of the Industrial Disputes Act, the order of dismissal could not be sustained on merits also.

3. It has not been challenged by the management that there has been contravention of the provisions of Sec. 33(2)(b) of the Industrial Disputes Act. The dispute relating to the claim for additional bonus by the bank employees was referred by the Central Government by an order dated 10th December 1965 and the case was still pending when the order of dismissal was made on 8th February 1966 and the appellate order on 11th May 1966. Shri A. N. Roy Choudhury appearing for the management has however urged that the petitioner is not entitled to reinstatement merely because there was a contravention of Section 33(2)(b) of the Industrial Disputes Act by the management. In this connection he has referred to the case of Rodrick V Karam Chand Thappar Private Limited (1963 I LLJ 248), a decision of the Supreme Court, where it was held as follows: "It is well settled that if an application is made by an employee under Section

33A of the Industrial Disputes Act and it is shown that the impugned dismissal of the employee has contravened Sec. 33 it is open to the employer to justify the dismissal on the merits by adducing satisfactory evidence before the tribunal". ...

4. It is therefore necessary to see whether on the merits the petitioner has any case. At the enquiry held by Shri K. B. Saxena, the petitioner was represented by Shri P. B. Gupta, Provincial Joint Secretary of the U.P. Bank Employees Union Ext. A is the original record of the proceedings held by Shri K. B. Saxena. The examination of the record shows that all the witnesses for the management were cross examined at length by Shri P. B. Gupta on behalf of the petitioner. There is therefore no substance in the contention that the petitioner did not have sufficient opportunity to cross examine the witness. As regards the point that part of the proceedings were held in his absence, the petitioner Lalta Prasad Ojha stated that he appeared before the enquiry officer at the commencement of hearing every day, but after some time he left the place and did some other work leaving his agent Shri P. B. Gupta to conduct his case; he said that nobody asked him to go away and to do some other work but nobody stopped him from going. He further stated that he could only sign his name in 'Hindi' and that he cannot read and write English or Hindi and therefore although a large number of cash receipt register and other papers were produced at the time of enquiry, he could not understand the entries therein and left the matter to his representative Shri P. B. Gupta. As regards the inspection held at the post office by the enquiry officer along with the representative of the management, the petitioner admitted that his representative Shri P. B. Gupta also went with the Enquiry officer and others for the inspection. In the circumstances, the petitioner cannot plead that he was prejudiced in any way because some of the evidence may have been recorded in his absence or because he did personally attend the inspection by the enquiry officer at the post office.

5. Regarding the procedure for encashment of the postal orders, paid in by a constituent of the bank with paying in slips, the petitioner Lalta Prasad Ojha has explained that the cashier used to send one of the guaranteed peons of the cash department for the purpose; but when one of the guaranteed peons happened to be absent and the cashier could not get a substitute from the treasurer who guarantees the fidelity of all the cash department staff and also sends substitutes for them, the cashier informed the Agent, and the Agent then asked the petitioner who was Jamadar to the Agent, to cash the postal orders and thereupon the petitioner did so. The petitioner further explained that the postal order or the batch of postal orders to be cashed on a day were sent with a forwarding letter containing the attested signature of the messenger peon. The forwarding letters with which the 147 postal orders mentioned in the first charge against the petitioner were sent for encashment have been produced before the tribunal and have been marked Ext. J to J8. On each one of them Lalta Prasad has admitted his attested signature as messenger peon, and also his signature acknowledging the payment, on the reverse side in Exts. J to J8 and on the obverse side of the forwarding letter in Exts. J4 to J8. The petitioner in his evidence before the tribunal admitted that he had received the money for the postal orders which he presented at the post office along with the forwarding letters. These documents show that he received Rs. 3/- by encashing one postal order on 24th October, 1963 and Rs. 338/- by encashing 47 postal orders on the same date; that he received Rs. 414/- on 18th November, 1963 by encashing 45 postal orders in 2 batches of 35 and 10 respectively; that he received Rs. 139/- on 23rd November, 1963 by encashing 19 postal orders in two batches of 9 and 10 respectively and that finally he received a sum of Rs. 307/- by encashing 39 postal orders on 20th December.1963 in batches of 19, 13 and 8 respectively. But the vouchers and the entries in cash receipt register maintained by the cash department showed that these monies were paid in by the petitioner long after the monies had been realised. On one of the vouchers, namely the vouchers for Rs. 3/- the petitioner Lalta Prasad's signature appears, the signature being admitted by him. This voucher has been marked Ext. K and shows that the money was paid in on 3rd October, 1964. The other vouchers do not bear the signature of Lalta Prasad, but in the cash receipt books which were exhibited before the enquiry officer and which were also produced before the tribunal, it is clearly mentioned that the payments were received through the petitioner, Lalta Prasad. These vouchers together with the entries in the cash receipt books show that the sum of Rs. 338/- received on 24th October, 1963 was paid in by the petitioner on 14th August, 1964; the sum of Rs. 414 received by the petitioner on 18th November, 1963 was paid in on 7th August, 1964; the sum of Rs. 139/- received on 16th November, 1963 was paid in on 7th August, 1964 and the sum of Rs. 307/- received on 20th December,

1963 was paid in on 7th August, 1964. The petitioner sought to explain before the tribunal that on cashing the postal orders entrusted to him, he paid the money to the Agent, Harnam Singh Srivastava on the same day. This defence however was not taken anywhere in the course of the enquiry held by Shri K. B. Saxena and was also not mentioned in the petition under Section 33A filed by the petitioner, Lalta Prasad Ojha. Accordingly the case sought to be made at the hearing cannot be accepted. It is clear from the evidence discussed that it was Lalta Prasad who paid in the money into the cash department but after temporary defalcation for 8 to 12 months.

6. In the circumstances, it must also be held that the enquiry officer was right in disbelieving his plea of forgetfulness as regards the delay of about 3 months which he made in paying the money for the telephone bill entrusted to him.

7. It should be mentioned that the examination of the record does not show any evidence of any bias on the part of the enquiry officer; neither did the petitioner in his evidence allege such bias. As regards copies of important documents being used at the enquiry, there are notes made by the enquiry officer that the originals were produced and shown to Shri P. B. Gupta, the representative of the petitioner. As regards the forwarding letters which had been lodged in the post office when the postal orders were encashed, the originals were examined by the petitioner's agent also when the enquiry officer held an inspection of these documents by visiting the post office. Before the tribunal these papers were called for at the instance of the management and were produced by an officer of the relevant post office, namely Kutcheri Post Office, Allahabad.

8. It must be held, therefore, that the charges were both sufficiently proved against the petitioner.

9. The management of the bank followed the procedure laid down by the Sastry award very carefully, giving opportunity to the petitioner to show cause against the sentence proposed before the orders of dismissal was passed, and in the appeal by reducing the order of dismissal to an order of discharge with one month's pay in lieu of notice. One month's pay having already been tendered by the appellate order, the petitioner is not entitled to a further sum equal to one month's pay mentioned under Section 33(2)(b) of the Industrial Disputes Act.

10. I therefore find that though there was contravention of Section 33(2)(b) of the Industrial Disputes Act in as much as no application was made to the tribunal for approval of the original order of dismissal or appellate order of discharge, the order of discharge is fully justified on merits, and the petitioner, Lalta Prasad Ojha, is not entitled to any relief.

(Sd.) S. K. SEN,
Presiding Officer.

Dated, Calcutta the 24th April, 1967

[No. 51/54/65/LRIV.]

New Delhi, the 6th May 1967

S.O. 1706.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Rajasthan, Jaipur in the industrial dispute between the employers in relation to the Phalodi Quarry of M/s. Jaipur Udyog Ltd., Sawaimadhopur and the Cement Works Karamchari Sangh which was received by the Central Government on the 27th April, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, RAJASTHAN, JAIPUR.

PRESENT:

Shri J. S. Ranawat.

CASE No. CIT-6 OF 1966

CASE No. CIT-10 OF 1966

REF.—Government of India Ministry of Labour, Employment and Rehabilitation, New Delhi Order No. 36/10/66-LRI dated 28th June, 1966, and No. 36/11/66-LRI dated 24th September, 1966.

In the matter of an Industrial Dispute,

BETWEEN:

The Cement Works Karamchari Sangh, Sawaimadhopur.

AND

The Jaipur Udyog Limited, Sawaimadhopur.

Date of Award: 13*th April*, 1967.

AWARD

These are two cases of reference by the Government of India, Ministry of Labour, Employment and Rehabilitation relating to the following disputes between the Phalodi Quarry of Messrs. Jaipur Udyog Limited, Sawai-Madhopur and their workmen represented by the Cement Works Karamchari Sangh, Sawaimadhopur:—

CASE No. CIT-6 OF 1966

"Whether Shri Surendra Singh, Overseer, Phalodi Quarry of Messrs Jaipur Udyog Limited, Sawaimadhopur is entitled to a basic salary of Rs. 175 plus usual allowances per month with effect from the 1st January, 1959? If not, to what relief is he entitled?"

CASE No CIT-10 OF 1966

"Whether Shri H. C. Verma, Vaidya, Phalodi Quarry of Messrs Jaipur Udyog Limited, Sawaimadhopur, is entitled to the grade of Rs. 110—12—170—EB—14—240—15—360? If so from what date?"

After both the parties had filed their pleadings and were in the stage of producing their evidence they entered into negotiations with each other for arriving at an amicable settlement. Today they have produced one memorandum of settlement in both the cases by which they have resolved their disputes. The said settlement has been verified by Chittar Singh, Vice President of the Cement Works Karamchari Sangh, Phalodi branch for the workmen and by Shri C. N. Sharma for the management. The terms of the settlement in both the cases are as noted below:—

LC-36 AND CIT-6.

"That Shri Surendra Singh, Overseer will be given three increments in his present grade of Rs. 100—10—180—12—204—EB—12—300 with effect from 1st January, 1965."

CIT-10

"It is agreed that Shri H. C. Verma, Vaidya will be placed in the grade of Rs. 100—10—180—12—204—EB—12—300 with a basic salary of Rs. 160 p.m. with effect from 1st September, 1966.

That in view of the above settlement, the Union and the workmen concerned will not raise any fresh dispute with regard to the issues settled herein above.

That it is further agreed that a joint application will be filed before the Hon'ble Industrial Tribunal (Central) Jaipur and the Hon'ble Labour Court Jaipur for passing an Award in terms of the above settlement on the issues pending before them."

Both the parties have prayed that an award be passed in both the cases in the terms of the settlement as mentioned above. An award is passed accordingly. A copy of the award shall be submitted to the Government of India for publication.

Sd./- J. S. RANAWAT,
Presiding Officer,
Central Government Industrial Tribunal, Rajasthan, Jaipur.

[No. 36/10/66-L.R.I.]

S.O. 1707.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947, the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Manager, Associated Cement Company's Quarry, Post Balasinor (Distt. Kaira) and the Secretary, A.C.C Quarry Workers' Union (Balasinor) Gandhi Majoor Sevalaya, Bhadra, Ahmedabad which was received by the Central Government on the 24th April, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE NO. CGIT 26 OF 1966

Employers in relation to the Quarry of the Associated Cement Companies, Post Balasinor, District Kaira.

AND

Their workmen.

PRESENT:

Shri Salim M. Merchant—Presiding Officer.

For the Workmen.—A.C.C. Quarry Workers' Union, (Balasinor), Gandhi Majdoor Sewlia Bhadra, Ahmedabad.

For the Employers.—Manager, Associated Cement Companies Quarry, Post Balasinor, District: Kaira.

Dated this 15th day of April, 1967

INDUSTRY: Lime Stone Quarry. STATE: Gujarat.

AWARD

The Central Government by the Ministry of Labour, Employment and Rehabilitation, (Department of Labour and Employment) Order No. 36/I/66-LR-I-LR. II, dated 29th April, 1966, made in exercise of the powers conferred by Clause (d) of Sub-Section (i) of Section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above-named to me for adjudication. The 18 subject matters under disputes are specified in the schedule to the said order, but I am not reproducing the same as they have been reproduced in the joint application of the parties dated 23rd March, 1967, copy of which is annexed to this Award.

2. After the usual notices were issued on the parties and they had filed their written statements and the matter was fixed for hearing, but not taken up, at Bombay, the parties forwarded to me a joint application dated 23rd March, 1967, incorporating the terms of settlement that had been reached by the parties on the subject matters under reference, and prayed that an Award be made in terms of that settlement. A copy of the said application of the parties, containing the terms of settlement is annexed hereto and marked Annexure 'A'. As the terms of settlement appear to be fair and reasonable and in the interest of industrial peace, I accept the same and make an Award in terms thereof as prayed by the parties.

3. No order as to costs.

Sd./- SALIM M. MERCHANT.
Presiding Officer.

ANNEXURE 'A'

BEFORE SHRI SALIM M. MERCHANT, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE NO. (CGIT) 26 OF 1966

BETWEEN

The Associated Cement Companies Limited, Limestone Quarries, Balasinor, District Kaira

AND

The Workmen Employed by it

May it Please the Hon'ble Tribunal:

The Associated Cement Companies Ltd., Sevalia Cement Works Limestone Quarries, Balasinor (hereinafter referred to as the Company) and its Workmen as represented by the ACC Quarry Workers' Union, Balasinor (hereinafter referred to as the 'Union') have arrived at the following settlement and pray that

this Hon'ble Tribunal may be pleased to make the Award in terms of the settlement.

Demands	Terms of the Settlement
1. Whether the following demands of the workers of the Quarry of the Associated Cement Companies, Post Balasinor, are justified:—	
(i) Shovel (Ecavator) Drivers, Dumper Drivers, Bulldozer Drivers and Wheel Tractor Drivers who have put in more than five years' service should be put in 'A' Grade and those who have put in less than 5 years' service should be put in 'B' Grade.	(a) The Union agrees to withdraw the demand. (b) However, it is agreed that:— (i) Shri Ignes Fernandis, T. No. 68, designated as Excavator Driver shall be promoted from his present 'B' Grade to 'A' Grade, subject to his passing the Trade Test. (ii) Sarvashri Chhagan Dabhi, T. No. 87, Mora Ganga, T. No. 82 Amrish K. Gandhi, T. No. 81 and Dahya Dana, T. No. 84 who are all designated as Junior Dumper Driver in 'C' Grade, shall be promoted to 'B' Grade, subject to their passing the trade test. (iii) Shri Khona Heera, T. No. 94, who is designated as Junior Bulldozer Driver shall be promoted as Bulldozer Driver in 'B' grade subject to his passing the trade test.
(ii) Diesel Loco Drivers should be put in 'C' Grade and Senior Loco Drivers should be given 'B' Grade.	The Union agrees to withdraw the demand. However, the Company agrees to promote Shri Magan Kona, T. No. 363, who is designated as Diesel Loco Driver in 'D' Grade to 'C' Grade, subject to his passing the trade test.
(iii) Shot-firers should be placed in 'C' Grade.	The Union agrees to withdraw the demand.
(iv) Quarry Drillers should be put in 'B' Grade and Junior Quarry Drillers should be put in 'C' Grade.	The Union agrees to withdraw the demand. However, it is agreed that the following workmen who are designated as Drillers in 'D' Grade shall be promoted to 'C' Grade subject to their passing the trade test. (i) Shri Shanker Sura, T. No. 242. (ii) Shri Lala Tatna, T. No. 241. (iii) Shri Abbas M. Shaikh, T. No. 249. (iv) Shri Dahya Ranchhol, T. No. 262. (v) Shri Ismail A. Rehman, T. No. 252.
(v) Mukadams (Mates) having more than five years' service should be put in 'B' Grade and those having less than five years' service should be put in 'C' Grade.	The Union agrees to withdraw the demand.
(vi) Greasers should be put in 'D' Grade.	(a) The designation 'Greaser' in the Schedule of Grades for the daily rated operatives figures in 'E' Grade. It is agreed that the said designation should also figure in 'D' grade.

Demands	Terms of the Settlement
	(b) The Company agrees to promote the following Greasers who are at present in 'E' Grade to 'D' Grade subject to their passing the trade test. (i) Shri Shana Kara, T. No. 166. (ii) Shri Ismail Rasool, T. No. 169. (iii) Shri Mitha Deva, T. No. 165.
(vii) Helpers should be given 'D' Grade.	The Union agrees to withdraw the demand.
(viii) Explosive carriers should be given 'D' Grade.	The Union agrees to withdraw the demand.
(ix) Pointsman should be given 'C' Grade.	The Union agrees to withdraw the demand.
(x) Persons working in place of 'Shot Firers' and helping them should be designated as 'Assistant Shot Firers' and should be given 'D' Grade.	The Union agrees to withdraw the demand.
2. Workers working with artisans like Welders, Turners, Blacksmiths, Fitters, Mechanics, Masons, Carpenters, Wiremen, Electricians, and Drivers in Workshop, Garage, Power House, or on Shovels, Bulldozers, Dumpers, Wheel Tractors, as well as in Electrical and Civil Engineering Department, whose present designations are 'Mazdoors' should be designated as 'Helpers' because of their nature of work and should be given 'D' Grade.	It is agreed that Mazdoors who are working with any of the said categories of artisans will be designated as 'Helper' and will continue in 'E' Grade. They will continue to perform the same duties which they have been doing hitherto.
3. The designations of Sarvashri (1) Gungabhai Virabhai. (2) Parmabhai Ashabhai. (3) Gangabhai Punabhai. (4) Jahabhai Lallubhai and (5) Manabhai Kundabhai should be changed to 'Oilmen' and they should be given 'D' Grade.	The Union agrees to withdraw the demand.
4. Shri Pratapbhai Amrabhai, T. No. 351 should be designated as 'Junior Carpenter' and given the appropriate grade as he is doing the work of carpenter for the last five years.	It is agreed that Shri Pratap Amra, T. No. 351, who is at present designated as 'Mazdoor' in 'D' Grade shall be promoted as 'Assistant Carpenter' in 'D' Grade subject to his passing the trade test. He will continue to perform the same duties which he has been performing hitherto.
5. Shri Abdulvahab Ismail is for last five years working in the vacancy caused by the death of Shri Mukundilal Devhans and hence he should be given 'A' Grade of the vacant post and his designation should be changed to 'Senior Carpenter'.	Shri Abdulvahab Ismail, T. No. 349, who was designated as Jr. Carpenter in 'C' Grade, has been promoted as Carpenter in 'B' Grade with effect from 1st January 1966. The Union, therefore, agrees to withdraw the demand.
6. Shri Ladubhai Sardar, T. No. 103, being the seniormost Diesel Loco Driver who is in 'D' Grade should be designated as 'Senior Diesel Loco Driver' and should be given the appropriate grade, in consideration of his services as 'Diesel Loco Driver'.	Shri Ladubhai Sardar, T. No. 103, who was designated as Diesel Loco Driver in 'D' Grade, has been promoted as Senior Diesel Loco Driver in 'C' Grade, with effect from 1st January 1966. The Union therefore, agrees to withdraw the demand.

Demands	Terms of the Settlement
7 Shri Rupabhai Dhulabhai, T No 295, is doing the work of Fitter namely, replacing of jack hammer in the drilling department He should therefore, be designated as 'Assistant Fitter' and given the appropriate grade	It is agreed that Shri Rupabhai Dhulabhai, T No 295, who is designated as Mazdoor shall be promoted as 'Assistant Fitter' in 'D' Grade subject to his passing the trade test It is agreed that he will continue to perform the same duties which he has been doing hitherto.
8 Shri Abdulmajid Ibrahim who works in place of the below mentioned 'Stores Issuers' on their weekly holidays and leaves should be designated as Stores Issuer' and given the appropriate grade (1) Shri Dayabhai Bhagwandas (2) Shri Ranchhodbhai Bhudarlal (3) Shri Kalidas Lalji	The Union agrees to withdraw the demand However, it is agreed that Shri Abdulmajid Ibrahim shall be paid allowance for the period he has acted in the past as Stores Issuer if such allowance has not already been paid to him
9 Sarvashri Jalubhai Motibhai, Fatabhai Dhulabhai and Dolabhai Dhulabhai, Mazdoors working in the Khalasi gang for the last 10 years should be designated as 'Khalasis' and given the appropriate grade	The Union agrees to withdraw the demand
10 Shri Kalidas Laljibhai, T No 164, who issues diesel oil, lubricating oil, etc for various machines and keeps accounts of these oils used and in stock by going to the machines personally, should be given the designation of Tally Checker and the appropriate grade, considering the work performed by him	It is agreed that Shri Kalidas Laljibhai T No 164, who is at present designated as Stores Issuer in 'D' Grade shall be designated as Senior Stores Issuer in 'C' Grade subject to his passing the trade test
11 The work of compounder and clerical work of dispensary stock taking etc is being taken from Shri Ibrahim Rehman Shaikh who is designated as a 'Dresser' in the Dispensary He should be designated as 'Compounder' and should be taken in the monthly grade	The Union agrees to withdraw the demand
12 Shri Yakubkhan Sikandarkhan Pathan has been working in the place of Shri H M Honest, a 'C' Grade Clerk in the Magazine Section He should therefore, be designated as 'Clerk' and should be given 'C' Grade	It is agreed that Shri Yakubkhan Sikandarkhan Pathan who is designated as Tally Checker shall be promoted as 'C' Grade Clerk and will be given Grade I of the Wage Board, subject to his passing the trade test
13 Shri Chaturbhai Zaberbhai designated as a 'Chaprasi' is actually doing the work of a peon in the Time Office He should be designated as a 'Peon' and given the appropriate grade	Shri Chaturbhai Zaverbhai, T No 2 has already been put as a Pointsman on probation The Union therefore, withdraws the demand
14 Shri Omkar Bhura (Civil) Engineering Department, who has been doing the work of a Supervisor since very long should be put in the monthly grade of pay.	Shri Omkar Bhura, T No 347 has already been promoted as a Mistry in 'A' Grade from 1st January 1966 As however his designation prior to 1st January 1966 was 'Supervisor (C E. Dept)'. He will be given the same designation, which will remain personal to him

Demands	Terms of the Settlement
15. One qualified Nurse should be recruited for the quarry.	The Company has already appointed a Nurse in its quarry dispensary. The Union, therefore, agrees to withdraw the demand.
16. In view of Shri Lallubhai Soma, T. No. 118, being a very senior and experienced fitter, and considering his work in comparison with the other fitters, his grade should be changed to 'A' Grade.	Shri Lallubhai Soma, T. No. 118, who was designated as Junior Fitter in 'C' Grade, has already been promoted as Fitter in 'B' Grade from 1st January 1966. The Union, therefore, withdraws the demand.
17 Shri Sikandarmiya Hussainmiya, T. No. 120, at present in 'C' Grade should be changed to 'A' Grade along with his co-workers.	It is agreed that Shri Sikandarmiya Hussainmiya, T. No 120, who is designated as Junior Fitter in 'C' Grade will be promoted to 'B' Grade subject to his passing the trade test.
18. Whenever any vacancy occurs in a higher grade, the same should be filled from amongst the senior workers of the same department and section.	It is agreed that promotion is Management's function. However, in promoting workmen due consideration will be given to the length of service efficiency, qualifications and merits.

It is agreed that in promoting the individual workmen to the higher grades under this Settlement the Company will take the trade tests within one month from the date of the Settlement, and the promotions will be prospective. The basic wage of the workmen who are promoted to the higher grade in terms of the Settlement will be fitted, in the appropriate new grades and if their basic wages do not correspond to a proper step in the new grade, it shall be rounded off, to the next higher step and their personal allowance if any, adjusted as per the recommendations of the Wage Board under para 13.15.1 (e) of its Report.

The Union agrees that with this Settlement the classification of all the workmen of the Balasinor Quarries is settled to the satisfaction of the Union and that the Union shall not raise any demand regarding classification of any designation into the higher grades or the classification of individual workmen into higher grades during the period of the operation of the Award in terms of this Settlement.

Dated at Sevalia, this Twenty Third March 1967.

For and on behalf of
The Workmen of the
Sevalia Cement Works
Limestone Quarries, Balasinor.

Sd/-

President
ACC Quarry Workers' Union, Balasinor.

Sd/-
General Secretary,
ACC Quarry Workers' Union, Balasinon.

Witnesses.

(1) Sd/-

(2) Sd/-

For and on behalf of the
Associated Cement Companies Limited,
Sevalia Cement Works Limestone
Quarries, Balasinor.

Sd/-

Agent.

Witnesses.

(1) Sd/-

(2) Sd/-

[No. 36/1/66-LR.I.]

S.O. 1708.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal-*Cum*-Labour Court, Jabalpur, in the industrial dispute between the employers in relation to Amehta Lime Stone Quarry belonging to M/s. R. B. Gour, Lime Manufacturers Katni (Madhya Pradesh) and their workmen which was received by the Central Government on the 25th April, 1967.

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL-*CUM*-LABOUR COURT JABALPUR

Dated April 8, 1967

PRESENT:

Shri G. C. Agarwala—Presiding Officer.

REFERENCE No. CIT/LC (33)/1966 (JABALPUR)
REFERENCE No. CGIT-(10)/1965 (BOMBAY)

In the matter of an Industrial Dispute between the Employers in relation to Amehta Limestone Quarry belonging to Messrs R. B. Gour Lime Manufacturers, Katni (Madhya Pradesh) and their workmen.

APPEARANCES:

For the employers.—S/Sri R. D. Barsaiyan, Manager & P. V. Lele, Advocate, Jabalpur.

For the workmen.—S/Sri R. K. Sharma, General Secretary, Choona Mazdoor Congress and Sri Gulab Gupta, Advocate, Jabalpur.

INDUSTRY: Limestone Quarry. DISTRICT: Katni (M.P.)

AWARD

The Ministry of Labour and Employment, Government of India, by Notification No. 36/3/65/LRI dated 1st February 1965 made a reference under Sec. 10 of the Industrial Disputes Act to Central Industrial Tribunal, Bombay, in respect of an industrial dispute stated in the Schedule to the order of reference reproduced below:—

SCHEDULE

Whether the dismissal of Shri H. K. Masih by the management of Amehta Limestone Quarry was justified? If not, to what relief is Shri Masih entitled?

2. The proceedings remained pending before the said Tribunal till it was transferred to this Tribunal by Notification No. 26/11/66-LRI dated 26th September 1966.

3. The parties had filed their statements of claim alone before the Bombay Tribunal. Rejoinders were, however, filed in this Tribunal after a number of dates. It may be mentioned that the case had to proceed *ex parte* against the employers on one of the dates and after the *ex parte* evidence have been concluded and award reserved, the proceedings were re-opened on sufficient cause on 2nd December 1966 subject to payment of certain costs to the Union. Thereafter on the pleadings of the parties certain addition issues were framed and which would sufficiently show the points in controversy between the parties:—

Issues

1. (a) Whether Sri Masih was a workman?
 (b) Was he a member of the Union?
 (c) Was the Union competent to espouse the dispute?
 (d) Is the dispute an industrial dispute?
2. Whether the death of Sri Badri Prasad as Sole Proprietor in any way affects the reference?
3. Whether the workman concerned was dismissed after a bonafide and proper enquiry conforming to the principle of natural justice?
4. Has the workman been victimised for trade union activities and was the termination of service and unfair labour practice?

5. Was the workman guilty of misconduct for which his services were terminated?

4. For hearing of the case, the parties were initially directed to produce evidence on the above issues except the last which related to the alleged misconduct of the workman for which his services were terminated. The workmen examined two witnesses Sri Ram Kishore Sharma (W.W. 1) and the workman concerned, Sri H. K. Masih (W.W. 2). Certain documents filed on behalf of the workmen were also proved and were marked Exts. W.1 to W.7. The employers after taking an adjournment produced four witnesses S/Sri R. N. Swami, Sunderlal Tiwari, Ramkumar Sharma & Baijnath Shukla (E.Ws. 1 to 4) and documents Exts. E.1 to E.11 were proved. After the evidence on the issues No. 1 to 4 was recorded, it was found that the domestic enquiry as a result of which the workman concerned, Sri Masih, had been dismissed may stand vitiated. The employers were, therefore, allowed an opportunity to adduce evidence on the alleged misconduct and the workmen to rebut the same. Consequently, on 1st April 1967, the employers examined five more witnesses. Smt. Roslin James (E.W. 5) her husband Sri Adwin Kumar James (E.W. 6) and three other witnesses S/Sri Padam Prasad Tiwari, Roshan Lal Verma and Ghoorka (E.Ws. 7, 8 & 9). Workmen in rebuttal examined Sri Lachman Singh (W.W. 3) and re-examined the workman concerned, Masih, was W.W. 2.

5. The workman concerned, Sri H. K. Masih, hereinafter called Masih, was a motor garage Mechanic with M/s R. B. Gour Lime Manufacturers, Katni (M.P.) for about three years. The Company had a Limestone Quarry in the name of the Proprietor, Sri Badri Prasad and he kept a kiln for manufacture of lime. Sri Badri Prasad appears to have died on 7th November, 1964. The mining lease expired on 8th November, 1964 soon after his death. As stated by his son-in-law, Sri R. N. Swami (E.W. 1) the lease has been renewed in the name of his widow. The firm is, however, being carried on by the legal heirs of the late Sri Badri Prasad namely, his widow and his two daughters. Sri Swami claims to have been looking after the affairs of the firm on behalf of the proprietors on the basis of a Power of Attorney alleged to have been executed in his favour and three other persons S/Sri Roshan Lal, Sunder Lal and R. D. Barsaiyan. Sri Roshan Lal as the Works Manager in overall charge of the business, while Sri Sunder Lal is the Quarry Manager. On behalf of the management, it is alleged that during the lunch interval on 13th October, 1964, Masih while going to his quarter on his bicycle showered filthy and vulgar abuses on seeing Roslin James, wife of Adwin James who was standing in front of her quarter. He is also alleged to have extended indecent overtures to Roslin James in the past. Roslin James complained the fact to her husband who working on the siding at some distance. Some labourers, 15 or 20 in number, were also there. This provoked a short strike for about an hour. On assurance given by Sri Roshan Lal and Lachman Singh, a Union worker (W.W. 3) workers resumed the work. A written complaint about the incident reached the management as a result of which it is claimed that a domestic enquiry was held on 25th October 1964. Sri Masih did not participate and refused to accept the notice when tendered on 23rd October 1964. The enquiry was conducted by Sri Swami (E.W. 1). The charges were found proved and therefore he was dismissed.

6. On behalf of the workmen, it is contended that the whole story is faked and concocted. The management was anxious to get rid of him because he had been working overtime as a Mechanic and also on weekly rest days. Since he pressed for payment for these extra works and also for the interim relief allowed in the Wage Board, he was asked to resign and when he did not do so he was stopped from work with effect from 27th October, 1964. He was an active union worker and for this reason also the management victimized him. Various contentions raised by the parties may conveniently be dealt with under the issues framed in the case and which may be taken up serially.

7. *Issue No. 1.*—The issue is in three parts. In para 6 of the written statement of the employers, it was pleaded that the dispute was not an industrial dispute inasmuch as Masih was not a workman and therefore not a person for whom the General Secretary of Choona Mazdoor Congress could raise a dispute. It was nowhere stated in the written statement how Masih was not a workman. Only in the rejoinder filed by the employers, in para 2 it was stated that Masih was employed as a Mechnic by the deceased, Sri Badri Prasad in his motor garage and not by the present employers. By implication it follows that the stand taken by the employers was that Masih was a domestic servant of the late Sri Badri Prasad This is falsified by the own evidence of the employers witness, Sri Sundar Lal Tiwari Manager of the Quarry (E.W. 2). He admitted that

Masih was Motor Mechanic and his job was to repair trucks meant for transporting limestone from quarry to kiln. It is thus manifest that Masih was not a personal servant of Sri Badri Prasad but was an employee of the firm. No records have been filed on behalf of the employers to show that he was not a worker of the quarry. As a matter of fact, the conciliation failure report would show that the management admitted before the Conciliation Officer, the Regional Labour Commissioner that Masih was employed as a mechanic in Amehta Lime Stone Quarry of the Company. It is thus clear that Masih was a workman as defined under the Industrial Disputes Act. It is further manifest that he was an employee of the quarry and therefore the Central Government was the appropriate authority to make the reference. It may be mentioned that no such specific plea had been taken by the employers that the reference was invalid as the Central Government was not competent to make a reference for an employee of the kiln. This aspect of the matter was, however, attempted to be introduced only in arguments. The written statement of the employers in paras 8 to 11 have merely challenged the proceedings before the Conciliation Officer with which the Tribunal is not at all concerned after a reference is made under Sec. 10 of the I.D. Act. The plea, therefore, that Masih was not a workman besides having been vague remained unsubstantiated.

8. Coming to the second part of the issue, the membership of Masih in the Union is established by the evidence of Sri Ram Kishore Sharma (W.W. 1) the General Secretary of the Union. He produced the Membership Register (Ex. W/6). From pages 63 to 71 workers of this company are recorded as members giving reference to the various dates and the receipt numbers whereunder subscriptions were realised. The name of Masih is recorded at serial No. 95 and he paid the subscription together with donations both in the year 1963-64 and in 1964-65. The relevant year is 1964-65 and the Counterfoil Receipt Book (Ex. W/7) confirms the payment. Ex. W. 7/A is Counterfoil receipt for payment of Rs. 6 on 12th March 1964. It is thus clear that Masih was a member of the Union.

9. For the third part of the issue, the Membership Register shows that 98 workers of this company both of quarry and kiln are members of the Union. In fact, Sri Sunder Lal Tiwari (E.W. 2) also admitted unequivocally that about 100 employees of the company are members of this Union. He further admitted that there are no manual employees in the quarry. Only 2 or 3 clerks and persons connected with the transport are employees of the quarry. There is further admission that transport employees are members of this Union. That being so, the Union is fully representative and competent to raise and espouse the dispute.

10. In the arguments, it was attempted to introduce a new fact by stating that the dispute was initiated by the General Secretary of the Union for which he had no authority under the Constitution. Such a plea was not open to the employers and cannot be considered. In para 6 of the written statement, it was stated that "General Secretary, Choona Mazdoor Congress is entitled to raise a dispute for those persons who may be aggrieved by any action of the employers if they are members of his Union at the time of or before the alleged dispute arises". With this unequivocal statement contained in the pleadings of the employers, the Union was not supposed to show the competency of the General Secretary to raise the dispute on behalf of the Union. The employers were, therefore, not permitted to raise this question.

11. The result of the above discussions is that the points raised by the employers in this connection are wholly untenable.

12. *Issue No.* 2.—It is difficult to comprehend how the death of Sri Badri Prasad affects the validity of the reference. The company is a running concern and the only change which has taken place after the death of Sri Badri Prasad is that the mining lease has been taken in the name of his widow and the proprietors of the company are now his widow and daughters. The reference is directed against M/s R. B. Gaur Lime Manufacturers in relation to Amehta Lime Stone Quarry. The death of Sri Badri Prasad, therefore, in no way affects the validity of the reference.

13. *Issue No.* 3.—There is a good deal of confusion about the so called domestic enquiry. In the pleadings, it was nowhere stated that there was any preliminary enquiry. Only during evidence it transpired from the evidence of Sri Swami that before he embarked upon the formal domestic enquiry there had been some preliminary enquiry on 15th October 1964, when confronted with his

own documents Ex. E/10 and E/11. Ex. E.11 is a show cause charge-sheet containing five charges whereunder he was required to submit an explanation within one week. It is contended that Masih declined to accept the same in presence of Baij Nath Shukla, Nandi Lal and Ambika Prasad who were signatories as witnesses of this fact. Ex. E/10 is a notice dated 23rd October 1964 which shows that the charges dated 15th October 1964 were tendered to him which he declined to accept and in consequence of which an enquiry was held and he had been found guilty. He was, however, again required to show cause on 25th October 1964 why he should not be dismissed and should appear before Sri Swami. This notice was also alleged not to have been accepted by Masih in presence of Sri Sunder Lal Tiwari and Sri Ramdhar Bamgaiyan who are signatories to this notice. Sri Swami claims to have held a domestic enquiry on 25th October 1964. He stated that he sent for Masih who declined to come and therefore he held an enquiry. From the contents of the notice dated 23rd October 1964 it appears that some enquiry had already taken place in the absence of Masih and he was only required to show cause why he should not be dismissed. In other words, it was a show cause notice for punishment. Consequently, even if Sri Swami held some enquiry on 25th October 1964 it was not a domestic enquiry in respect of the charges framed in the charge-sheet dated 15th October 1964. He admitted that he was asked by the deceased, Sri Badri Prasad, to go and after seeing the situation take necessary action in accordance with law. Thus, the show of enquiry which is alleged to have been conducted on 25th October 1964 was in fact not an enquiry as to show cause notice itself would show, but only to determine the quantum of punishment, some enquiry having already taken place behind the back of the workman and in proof of which no evidence has been tendered. It appears that some written complaint was obtained from Padam Prasad Tiwari (Ex. E/12), P. N. Singh (Ex. E/13) along with the complaints about the incidents dated 13th October 1964 from Roshn James and her husband Adwin James (Exts. E/15 and E/16). These alone in the opinion of the employers constituted an enquiry, and for which evidently no notice had been given nor were witnesses examined as also no Enquiry Officer conducted an enquiry. That being so, there was no enquiry at all previous to 25th October 1964.

14. For the alleged enquiry on 25th October 1964 as already stated above, the notice (Ex. E/10) on which the management relied was merely a show cause notice and not a notice of domestic enquiry. Even assuming that this could be treated as enquiry for the misconduct, it would be found that this also stands vitiated on a variety of grounds. In the first place, Sri R. N. Swami was not duly appointed Enquiry Officer. In cross-examination, Sri Swami contended that he was appointed Enquiry Officer by Sri Roshan Lal. No such letter was filed. He first attempted to state that Ex. E/10 was that letter, but when confronted he had to admit that it was a charge-sheet and not the letter of appointment. He tried to explain later on that the late Sri Badri Prasad had asked him to go and see to the situation. This was hardly an authority to make him an Enquiry Officer. Since he claims to have been looking after the affairs of the company having been the son-in-law of late Sri Badri Prasad, he assumed the self imposed role of Enquiry Officer. That being so, the enquiry was not conducted by a duly authorised person. Standing Orders, a certified copy of which has been filed, in Clause 18 requires the manager or the employer to institute enquiries in respect of charges against a workman. Sri Swami was neither a manager nor an employer nor had been appointed as an Enquiry Officer by either of them.

15. It is doubtful that Masih had any notice of the enquiry. Ex. E/10 dated 23rd October 1964, is the alleged notice which was refused to have been accepted in presence of Ram Dhar Bargaiyan, Sunder Lal Tiwari and Nandini Lal. Out of the witnesses, Sri Sunder Lal Manager of the Quarry, stated that in his presence in the office some person offered the letter Ex. E/10 to Masih. Who that person was he did not remember. He gave attention only when hot words were exchanged and he could not say what happened to it. He, however, admitted that there is a Peon Book for letters and the letters are sent along with the Peon Book. There is no explanation why this notice was not sent through the Peon Book and the person who actually tendered has not been produced. It is further significant to find that Ex. E/10 is a carbon copy and on which signatures of witnesses are found appended. Actually this could have been on the original which was tendered. Sri Swami admitted that a notice is sent by Registered Post if the person tendering the notice be not available. There is no explanation why a notice was not sent under registered post and which alone could have afforded a *bona fide* proof that really some notice was given. The workman, Masih, has denied that he was tendered any notice or had any knowledge either

of charge-sheet dated 15th October 1964 or of the so called enquiry on 25th October, 1964. He sent a communication to the management (Ex. E/12) stating that he was called from his quarter on 25th October 1964 and was asked to hand over the key for which he demanded a writing and reason. He had been prevented from working from 27th October and making similar allegations, he moved an application to the Regional Labour Commissioner, copy of which is Ex. E/1 of the employers and Ex. W/3 of the workmen. The allegations were not refuted on behalf of the management. The explanation given by Sri Swami that since the allegations were false, therefore, it was not considered necessary to deny them is really astounding. If the allegations were really false there was all the more reason to controvert the same. I am, therefore, inclined to accept the version of the workman that he had no notice of the enquiry on 25th October 1964.

16. That the enquiry was merely a farce and probably a got up one is further demonstrated by the finding of the Enquiry Officer, Sri Swami. He without discussing any evidence and even stating the names of the witnesses produced, recorded in his finding (Ex E/8) that all the five charges were proved. Statements Ex. E/3 to E/7 could have been obtained in writing at any time from the witnesses. It may be mentioned that these do not even prove all the charges and the versions given in these statements are highly conflicting from the versions of some of the witnesses stated before the Tribunal on the question of the alleged misconduct.

17. It is, further, curious to find that the order of dismissal was recorded by Sri Swami himself in his finding (Ex. E/8). He had no authority to dismiss an employee. Under the Standing Orders, as adverted to earlier, it is the Manager or the employer who alone could terminate the services of an employee. The dismissal of Masih therefore was by a wrong person who had no authority. Not only this, the order dated 25th October 1964 bears the signature of Sri Swami (Ex. E/17). There is, however no proof of its intimation to Masih. It is doubtful that any enquiry at all was held on 25th October 1964 and if at all it was so held, there was no notice to the workman concerned, nor was it conducted by a duly appointed person and above all the dismissal order was also passed by a person who had no authority to do so.

18. The finding of this issue must, therefore, be recorded against the employers.

19. *Issue No.* 4.—It cannot be said that in terminating the services of Masih, the employers victimised him for trade union activities. He was just a member and not an office bearer of the Union. Sri Ram Kishore Sharma (W.W. 1) Secretary of the Union gave a vague statement that Masih was a champion of the cause of workers. It is, however, significant to find that Masih did not state so. As a matter of fact, there is nothing to indicate of his active association in any union activity. In the complaint which he sent to the Regional Labour Commissioner soon after his termination (Ex. E/3), there is no mention of any union activity or victimisation as a result thereof by the employers. The only ground alleged was that he had been demanding payment for overtime work and work on weekly rest days, as also for an interim relief under the Wage Board. There is no evidence that he had really been doing overtime or work on weekly rest days and for which he may have been pressing the management for payment so as to provide a motive by way of unfair labour practice to terminate his services. He stated nothing of the kind in his own deposition. There is, therefore, no substance in the plea and is answered in negative.

20. *Issue No.* 5.—To justify the termination for misconduct, the management produced some evidence before this Tribunal. Out of the five charges stated in the so called charge-sheet (Ex. E/11) evidence has been tendered with respect to charges Nos. 4 and 5 alone namely, for his misbehaviour towards Smt. Roslin James W/o Sri Edwin James and to abuse her on 13th October 1964 and as a result whereof there was a strike by some of the labourers. It appears that the mother of Smt. Roslin James and wife of Masih are own sister. It is also an admitted fact that Masih was responsible in getting Sri Adwin James employed in this company. Being so close to Smt. Roslin James, she used to cook meals for Masih. She stated that Masih made indecent overtures and therefore she left cooking. Her husband, Sri Adwin James, however, contradicts her by saying that since Masih could not get meals in time, therefore she stopped cooking. Be as it may, her further complaint is that Masih and son of Masih had been accusing her to be friendly with a Railway Guard. It is further stated that son of Masih used to quarrel and beat her children, for which she rebuked Annoo, son of Masih. For this reason Masih used to abuse her. That provided a motive for the incident on 13th October 1964. Date, however, has been wrongly stated by her husband, Sri Adwin James as 14th October, 1964 which may be a slip.

21. For the incident in question Smt. Roslin James stated that she was standing outside the court-yard and Masih went away abusing her. She informed her husband when he came for lunch. Her husband enquired from the Manager, Sri Padam Prasad Tiwari, and then gave a written complaint. Only Sri Padam Prasad Tiwari over heard the abuses. In her written complaint (Ex. E/16) to the employers and the Manager she had given a different version stating that she questioned Masih why he was abusing on which he stated that he was abusing Manager, Sri Pamad Prasad Tiwari. In the complaint of Sri Adwin James (Ex. E/15), he gave a different version stating that she enquired from Sri Tiwari whom Masih had abused. Sri Padam Prasad Tiwari is the only alleged eye witness (E.W. 7) who over heard the abuses. He stated that after he had reached canteen where he was residing he saw Masih passing on cycle and uttering abuses. He enquired from Masih whom he was abusing but he did not reply and went away. When he came out, wife of Sri James enquired from him whom Masih had abused and he told her that he did not know. The abuses were filthy and vulgar. When he came to the place where Sri Adwin James was working he get furious and some 50 to 60 labourers struck work. Masih came with Sri Roshan Lal and stated that he abused Sri Padam Prasad Tiwari. It is interesting to find that in the statement dated 14th October 1964 (Ex. E/12) under his signature purported to have been given to the management, this witness gave a completely different picture. He stated therein that while he was going to canteen he saw Masih cycling. He joked with Masih and Masih on which abused him and later on abused wife of Sri James. To the similar effect was the statement of Sri P. N Singh dated 14th October, 1964 (Ex. E/13). In the so called statement given before Sri Swami, dated 25th October, 1964 (Ex. E/5) it was stated that Masih abused wife of Sri James. There is no mention that he made enquiry from Masih whom he was abusing. With such conflicting versions given by Sri Padam Prasad at different times no reliance can be placed on his testimony before this Tribunal. Sri Adwin James, husband of Smt. Roslin James stated that when informed by his wife, he enquired from Sri Padam Prasad Tiwari and he confirmed that Masih had abused his wife As stated earlier, Sri Padam Prasad Tiwari does not categorically state that Masih had abused Smt. Roslin James. Sri Roshan Lal Verma and Ghoorka, two other witnesses, reached after the occurrence when there was some strike. Sri Roshan Lal stated that Masih declared that he had abused Sri Padam Prasad and not Smt. Roslin James. Sri Ghoorka on the other hand, stated that Masih did not admit that he abused anyone. There is thus wide divergence in the versions given by each. It may be that Masih may have been uttering abuses while passing in front of the quarters of Sri Adwin and the canteen where Sri Padam Prasad Tiwari was residing but there is no proof that his abuses were specifically directed against Roslin James. She may have misunderstood him because of her strained relations with Masih.

22. Apart from this, this incident hardly is covered by any of the clauses of Standing Orders which may constitute a misconduct. Out of the various clauses the only relevant clause could be Clause 16(3)(h) which states "Riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline." It was not disorderly behaviour during working hours or at the establishment nor was the act subversive of discipline. It was a private affair between Smt. Roslin James and her husband Sri Adwin James or with Sri Padam Prasad Tiwari. The fact that for sometime the labourers near the siding struck the work on some misunderstanding is of little consequence and is not a material factor to be merited for consideration of the misconduct. It appears that just because there was an excitement and on a complaint by Smt Roslin James and temper shown by her husband, the labourers taking their side stopped work for about half an hour all this impelled the management to terminate the services of Masih. The cause however, was not such which could be described as a misconduct and for which his services could be terminated

23 It must, therefore, be held that there was no misconduct covered by the Standing Orders and for which the management could terminate the services of Masih. The first part of the issue under reference must be answered in negative As to the second part of the issue under reference, normally when dismissal or termination of the service of a workman was not justified a proper relief is reinstatement and with back wages. It is however permissible not to order reinstatement for special reasons peculiar to any case In this case it is clear that there was some incident on 13th October 1964 which was rightly or wrongly construed as abuses flung by Masih towards Smt Roslin James Masih himself admitted that when called to the siding Sri Lachman Singh informed him that Sri James has got a strike rendered by workers but he got the matter set right Sri Padam Prasad Tiwari and Sri Roshan Lal were also there. Sri Lachman

Singh, a union worker, also admitted at least this part of the story that there was excitement and labourers had struck work. He, however, pacified them. From these implied admissions made by Masih and Sri Lachman Singh, it is evident that there was some incident resulting in excitement and temporary stoppage of work by the workers who were working at the siding with Sri Adwin James. Apart from this, the conduct of Masih, rightly or wrongly, in giving an impression to Smt. Roslin James who as stated by him is like his daughter, that Masih had been making indecent overtures and his attitude was aggressive towards her, merits condemnation by itself. The continuance of employment of such a person in the establishment would not be conducive to industrial peace and harmony. Consequently, I feel that in view of the exceptional circumstances of this case, it would not be desirable to order reinstatement of Masih and compensation in lieu thereof would meet the ends of justice.

24. As to the amount of compensation, Masih is a technical man, being a Mechanic. There is no proof one way or the other that he has remained unemployed. As a motor mechanic, by losing this job there is no danger of his remaining out of employment for long. With his technical skill he can eke out his livelihood without even an employment. The measure of compensation, therefore, need not be determined in any liberal manner. From October, 1964, till the date of this award he would have been entitled to back wages for two and a half years. An equal amount in lieu thereof for loss of further employment should be ample compensation. Thus compensation on the basis of wages which he had been receiving, for a period of five years would be adequate compensation. There is no evidence what were his wages, basic and dearness allowance. It is, therefore, directed that Masih would be paid compensation in lieu of reinstatement and back wages to the extent of five years wages which will be determined on the basis of the actual wages he was receiving basic pay and dearness allowance, but without any other ancillary benefit, from the date of termination of his service.

25. The Union, Choona Mazdoor Congress, will be entitled to Rs 100 as costs of this proceedings from the employers.

Sd/- G. C. AGARWALA,
Presiding Officer.
8-4-1967.

[No. 36/3/65/LRI.]

New Delhi, the 8th May 1967

S.O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Calcutta in the industrial dispute between the employers in relation to the General Assurance Society Limited, Calcutta and their workmen which was received by the Central Government on the 26th April, 1967.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, CALCUTTA

REFERENCE No. 147 OF 1966

PARTIES:

Employers in relation to the General Assurance Society Ltd., Calcutta,

AND

Their workmen

PRESENT:

Shri S. K. Sen, Presiding Officer.

APPEARANCES:

On behalf of employers—Absent.

On behalf of workmen—Shri Kalipada Bose, Asstt. Secretary, Insurance Employees Association, Calcutta.

STATE: West Bengal INDUSTRY: Insurance.

AWARD

By Order No. 70(6)/66-LRIV dated 23rd August 1966, the Central Government referred for adjudication an industrial dispute arising from the termination of service of Shri Ramesh Bhattacharya by the management of the General Assurance Society Limited with effect from 1st March, 1966. Shri Kamesh Bhattacharya was appointed on probation by the General Assurance Society Limited by an appointment letter dated 3rd December 1965, and before the expiry of probationary period, the management terminated his service with effect from 1st March, 1966. No reason was given in the order of termination of service, but the management's case before the Conciliation Officer was that his service was terminated because his work was found unsatisfactory. The Conciliation Officer submitted a failure report on 8th July 1966 and thereafter the Central Government referred the dispute by the order dated 23rd August, 1966. But, in the meantime the parties again approached the Conciliation Officer namely, the Assistant Labour Commissioner (Central) Calcutta on 15th July 1966, and he succeeded in reaching a settlement on that date, the terms for settlement being that the management will pay 3 (three) months' salary to the workman Shri Kamesh Bhattacharya within 14 days, Shri Kamesh Bhattacharya giving up the claim for reinstatement. The Union, namely, the Secretary, General Assurance Society Limited Employees' Union, has by an application filed on 14th April, 1967 stated that the dispute may be disposed of as settled. Shri Kalipada Bose, Assistant Secretary of the Union also appeared before the tribunal and produced the original memorandum of settlement entered into between the parties on 15th July 1966 in the presence of Shri C. Khakha, Assistant Labour Commissioner (Central), Calcutta and has stated that there is now no dispute pending. Accordingly, my award in the case is that the dispute has been settled out of the court and that no dispute existed when the order of Reference was made.

(Sd.) S. K. SEN,
Presiding Officer.

Dated, 24th April, 1967.

[No. F.70/6/66-LR.IV.]

ORDERS

New Delhi, the 3rd May 1967

S.O. 1710.—Whereas an industrial dispute exists between the Chief Personnel Officer, Hindustan Zinc Limited, Udaipur (hereinafter referred to as the said Company) and their workmen represented by the Zawar Mines Mazdoor Sangh, Udaipur (hereinafter referred to as the Union);

And, whereas the said Company and the Union have by a written agreement, in pursuance of the provisions of sub-section (1) of section 10-A of the Industrial Disputes Act, 1947 (14 of 1947), agreed to refer the said dispute to arbitration of the person mentioned therein and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10-A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement, which was received by it on the 28th April, 1967.

Agreement

(Under Section 10-A of the Industrial Disputes Act, 1947)

BETWEEN

Name of parties:—

Representing employers—Shri U. S. Bhatnagar, Chief Personnel Officer, Hindustan Zinc Limited, Udaipur.

Representing workmen—Shri D. Durgawat, President Zawar Mines Mazdoor Sangh.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri Salim M. Merchant at present Presiding Officer, Central Government Industrial Tribunal, Bombay.

(i) Specific matters in dispute:

(1) Whether the demand of the Zawar Mines Mazdoor Sangh for the payment of bonus to the workmen as per the long-term settlement, dated 8th April, 1960, is justified? If not, to what relief are the workmen entitled?

(2) Whether the demand of the Zawar Mines Mazdoor Sangh for converting all the permanent daily rated monthly paid workers into monthly rated monthly paid workers and for an increase in their existing quantum of leave is justified? If not, to what relief the workmen are entitled and to what extent?

(3) Whether the demand of the Zawar Mines Mazdoor Sangh for payment of Dearness Allowance according to the Central Government rates and then its linking with the consumer price index is justified? If not, to what relief are they entitled?

(4) Whether the existing grade of the workmen of Zawar Mines and Head Office of the Hindustan Zinc Ltd., Udaipur need revision? If so, to what extent and from what date?

(5) Whether the demand of the Zawar Mines Mazdoor Sangh, Udaipur for reimbursement of medical expenses to the workmen, as are admissible to other Government employees is justified? If not, to what relief are the workmen entitled?

(6) Whether the demand of the Zawar Mines Mazdoor Sangh, Udaipur, for payment of bothways train fare and other conveyance charges to the workmen for going home on annual earned leave is justified? If not, to what relief are they entitled?

(7) Whether keeping in view the distance involved the workmen of Zawar Mines are entitled to transport facilities for their children for going to Schools? If so, what type of facility should be granted?

(8) Negotiations are in progress as regards item No. of the Memorandum of Settlement and if no settlement is arrived at mutually the cases will also be referred to arbitration for decision.

(ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved:

Hindustan Zinc Limited, A Government of India Undertaking, 11/221, Hospital Road, Udaipur, Rajasthan.

(iii) Name of the Union, if any, representing the workmen in question:
Zawar Mines Mazdoor Sangh, Udaipur.

(iv) Total number of workmen employed in the undertaking affected:
About 1500.

(v) Estimated number of workmen affected or likely to be affected by the dispute.

About 1500.

Signature of the parties:

Representing employers: Sd/-

Representing workmen: Sd/-

Witness:

1. Sd/-

2.

I consent to act as Arbitrator in this Industrial Tribunal.

Sd/- SALIM M. MERCHANT,

Bombay, 17th April, 1967.

[No. F. 36/18/67-LRI.]

New Delhi, the 4th May 1967

S.O. 1711.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the M/s. Krishna Cement Sitharampuram Mines, Piduguralla, District Guntur (Andhra Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Labour Court, Guntur, constituted under section 7 of the said Act.

SCHEDULE

"Whether the management of M/s. Krishna Cements, Sitharampuram Mines, Piduguralla was justified in discharging Shri G. Obulu? If not, to what relief is he entitled?"

[No. F. 36/10/67-LRI.]

S. S. SAHASRANAMAN, Under Secy.

(Department of Labour and Employment)

New Delhi, the 5th May 1967

S.O. 1712.—In pursuance of sub-section (1) of Section 14, Sub-section (1) of Section 15, Sections 16, 17 and 18 of the Personal Injuries (Compensation Insurance) Act, 1963 (37 of 1963), the Central Government hereby authorise the Mamlatdar, Dadra and Nagar Haveli, Silvassa to exercise the powers under Sections 14, 15, 16, 17 and 18 of the said Act throughout the Union Territory of Dadra and Nagar Haveli.

[No. 3/40/66/Spl.-Fac.II.]

P SADAGOPAN, Dy. Secy.

(Department of Labour and Employment)

New Delhi, the 3rd/5th May 1967

S.O. 1713.—In exercise of the powers conferred by sub-section (2) of section 26 of the Minimum Wages Act, 1948 (11 of 1948) and in continuation of the Notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation No. S.O. 682, dated the 23rd February, 1966, the Central Government, having regard to the special regulations that have been framed in respect of the service conditions of employees working in vessels, shore-stations and survey parties under the Calcutta Port Commissioners, hereby directs that subject to the conditions hereinafter specified the provisions of sections 13 and 14 of the said Act shall not apply to the said employees for a further period of one year from the date of this Notification.

The conditions referred to in paragraph 1 are the following namely:—

(i) the Port Commissioner shall publish the said regulations in a pamphlet form in the English language and in the language or the languages understood by the majority of the employees;

(ii) before making any amendment to the aforesaid regulations, the Port Commissioners shall inform the employees concerned by notice, to be put up on the notice board of the office of the Port Commissioner, of the proposed amendment and shall consider any suggestions that may be made in respect thereof within 20 days of such notice; and

(iii) a copy of the pamphlet referred to in condition (i) above and a copy of every amendment thereto shall be supplied to each employee concerned.

[LWI. I-8(1)/67.]

O. P. TALWAR, Under Secy.

(Department of Labour & Employment)

New Delhi, the 8th May 1967

S.O. 1714.—In exercise of the powers conferred by sub-section (1) of section 83 of the Mines Act, 1952 (35 of 1952), the Central Goernment hereby exempts the Mandi Salt Mines of Messrs. Hindustan Salts Limited from the operation of Section 76 of the said Act, in so far as it relates to the nomination of only a

director to assume the responsibility of the owner of the mine for the purposes of the said Act, until a Managing Director is appointed by the Company.

[No. 1/167-MI.1]

J. D. TEWARI, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 6th May 1967

S.O. 1715.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954), the Central Government hereby appoints Shri D. D. Purie in the office of the Regional Settlement Commissioner, New Delhi as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the fore-noon of the 18th March, 1967.

[No. 7/8/55-Admn(R)/AGZ.]

A. G. VASWANI,

Settlement Commissioner (A) & *Ex-Officio* Under Secy.

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